

Dear Town and Parish Councillors

A number of significant changes have come into force as a result of the Business and Planning Act 2020, which received Royal Assent on 22 July, which we feel important to bring to your attention. In addition to this, we also refer you to the newsletters which have been circulated which contain important information and can be viewed via the following link -

<https://www.eastsuffolk.gov.uk/planning/covid-19-updates/>

There has also been other guidance and regulations issued recently relating to the planning regime as part of the Government's response to the pandemic and other previously planned changes to the planning system.

The new permitted development rights do not generally come into effect until the end of August or 1 September.

### **Ministerial Statement on Culture venues and Holiday Parks:**

On 14 July 2020, the government published a [written ministerial statement](#) to support the culture and tourism sectors by both preventing the loss of theatres, concert halls and live music performance venues, and encouraging local planning authorities to exercise their discretion in relation to planning conditions for caravan, campsites and holiday parks. This statement sets out the approach local planning authorities should take to decision making for these venues that have been made temporarily vacant by Covid-19 business disruption. The statement also encourages local planning authorities not to undertake enforcement action which would unnecessarily restrict the ability of caravan, campsites and holiday parks to extend their open season. The statement came into effect on 14 July 2020 and will remain in place until 31 December 2022 unless superseded by a further statement.

- . With immediate effect, local planning authorities should have due regard to their current circumstances when considering whether to grant planning permission for a change of use or demolition of a theatre, concert hall or live music performance venue that has been made temporarily vacant by Covid-19 business disruption.
- . It is the Government's intention to make an amendment to the Town and Country Planning (General Permitted Development (England) Order 2015 (S.I. 2015/596) to remove permitted development rights for demolition of theatres, concert halls and live music performance venues.
- . Caravan and holiday parks in England were able to reopen from 4th July 2020. Extending their operation beyond the usual summer season will be invaluable to parks as the sector begins to recover. Current planning conditions may limit their open season. The temporary relaxation of these

planning restrictions can play a vital role in helping local businesses to get up and running again.

- . The National Planning Policy Framework already emphasizes that planning enforcement is a discretionary activity, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Given the current situation, while local planning authorities must have regard to their legal obligations, they should not seek to undertake planning enforcement action which would unnecessarily restrict the ability of caravan and holiday parks to extend their open season.

### **Changes to the Use Classes Order:**

- . [\*The Town and Country Planning \(Use Classes\) \(Amendment\) \(England\) Regulations 2020\*](#) will introduce three new broad use classes - Class E, Class F1 and Class F2 - in England only. This will mean that any use within the newly defined Use Classes will be able to change to another use within the same use class without the need for planning permission.
- . Class E - "commercial, business and service" - use class would subsume the existing Class A1 (Shops), Class A2 (Financial and professional services), Class A3 (Restaurants and cafes), and Class B1 (Business) use classes
- . Class F1 relates to "learning and non-residential institutions" and includes any non-residential use for the "provision of education, for the display of works of art (otherwise than for sale or hire), as a museum, as a public library or public reading room, as a public hall or exhibition hall, for, or in connection with, public worship or religious instruction, as a law court".
- . Class F2 relates to "local community" uses. These are listed in the regulations as "a shop mostly selling essential goods, including food, to visiting members of the public in circumstances where the shop's premises cover an area not more than 280 metres square, and there is no other such facility within 1,000 metre radius of the shop's location".  
An explanatory memorandum says that 'shop' is defined "as a shop mostly for the sale of a range of essential dry goods and food to visiting members of the public". It adds that this "provides some protection for such shops while placing those shops found on high streets and town centres in the new 'commercial' class".  
F2 uses also include "a hall or meeting place for the principal use of the local community, an area or place for outdoor sport or recreation, not involving motorised vehicles or firearms, an indoor or outdoor swimming pool or skating rink".  
Exemptions include any "public house, wine bar, or drinking establishment", "drinking establishment with expanded food provision", hot food takeaways, live music venues, cinemas, concert halls, bingo halls and dance halls.
- . **The regulations come into force on 1 September 2020. Planning Practice Guidance will be updated to reflect the changes before they come into effect. The regulations relate to a temporary period from 1 Sept 2020 to 31 July 2021 and we intended to provide greater flexibility for recovering Town Centres and High Streets. However, there is no geographical limit within the regulations so**

**officers are waiting for the Planning Practice Guidance to be published for further clarity.**

### **New permitted development right to demolish and rebuild housing:**

- ❑. A new regulation enacts a new right to demolish vacant buildings and replace them with new residential units. The statutory instrument is [\*The Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) \(No. 3\) Order 2020\*](#). An explanatory memorandum says the new right will apply to "vacant and redundant free-standing buildings" that are classed as offices, premises for research and development or light industrial processes, and "purpose-built residential blocks". The right comes into effect on 31 August 2020.
- ❑. Buildings must have been "entirely vacant for at least six months prior to the date of the application for prior approval", and built before 1 January 1990.
- ❑. The new building cannot be larger than the footprint of the existing building and cannot exceed a maximum size of 1,000 square metres. However, it can be up to seven metres higher to accommodate up to two additional residential storeys, within a final overall maximum height of 18m
- ❑. The local authority must decide on an application for prior approval within eight weeks, after which the applicant has a right of appeal to the secretary of state. Matters to be considered through prior approval include:
  - the transport and highways impacts,
  - contamination and flooding risks ,
  - the impact of noise on the future residents,
  - design and external appearance of the new building,
  - the adequacy of natural light in all habitable rooms of each new dwellinghouse,
  - the impact of the introduction of residential use into an area,
  - the impact of the development on the amenity of the new building and of neighbouring premises, including overlooking, privacy and light.
- ❑. The right does not allow for demolition without subsequent construction of a new residential building, nor for the construction of a new residential building on previously cleared land.
- ❑. Taken together, demolition and replacement build must be completed within three years of the date of the grant of prior approval.
- ❑. The local authority has to "notify any owners or occupiers adjoining the proposed development".
- ❑. The developer must prepare a construction management plan, setting out how it intends to minimise adverse impacts on neighbouring premises.

### **New Permitted development for homeowners to extend upwards:**

- ❑. A second regulation introduces a PD right allowing homeowners to extend their properties via upward extensions. [\*The Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) \(No. 2\) Order 2020\*](#) introduces a permanent right to enable existing houses that are

detached, semi-detached or in a terrace to be extended upwards to provide additional living space by constructing additional storeys. The right comes into effect on 31 August 2020.

- . An explanatory memorandum on the change says the right allows the construction of up to two additional storeys on the topmost storey of a detached house of two storeys or more, or one additional storey on a detached house of one storey, above ground level.
- . The memorandum says that, in a terrace of two or more houses (which includes semi-detached houses) the right "allows the construction of up to two additional storeys on the topmost storey of a house of two storeys or more, or one additional storey on a house of one storey above ground level".
- . The right is "subject to a maximum height limit for the newly extended house of 18 metres, and where the house is in a terrace its height cannot be more than 3.5 metres higher than the next tallest house in the terrace", the explanatory memorandum says.
- . To prevent overlooking, the document says, a window "cannot be installed in a wall or roof slope of a side elevation of an additional storey built under this right".
- . The right is also subject to obtaining prior approval from the local authority, which will consider certain matters relating to the proposed construction of additional storeys. These include:
  - consideration of the impact on the amenity of neighbouring premises, including overlooking,
  - privacy and overshadowing;
  - the design, including the architectural features of the principal elevation of the house, and of any side elevation which fronts a highway;
  - the impacts a taller building may have on air traffic and defence assets and on protected vistas in London.

### **New permitted development rights to extends buildings upwards to provide flats:**

- . Four new PD rights allowing upward extensions are also introduced by the same statutory instrument, [\*The Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) \(No. 2\) Order 2020\*](#). The regulations take effect on 31 August 2020.
- . They are:
  - Class AA "which permits construction of up to two new storeys of flats on top of detached buildings in commercial or mixed use, including where there is an element of residential use";
  - Class AB which "permits the construction of new flats on top of terrace buildings (including semi-detached buildings) in commercial or mixed (including residential) use";
  - Class AC which "permits the construction of new flats on top of terrace dwellinghouses (including semi-detached houses)";
  - Class AD which "permits the construction of new flats on top of detached dwellinghouses.
- . In the new AA-AD use classes, "two storeys may be added if the existing building is two or more storeys tall, or one additional storey where the

building consists of one storey", the notes say. The regulations stipulate that "storey" is defined "so as to exclude any storey below ground level, and any living space within the roof of the dwellinghouse".

- The new PD rights are subject to a number of limitations and conditions, including a requirement for prior approval from the local planning authority in relation to certain matters. These relate to:
  - the transport and highways impacts of the development;
  - air traffic and defence asset impacts;
  - contamination risks in relation to the building;
  - flooding risks in relation to the building;
  - the external appearance of the building, including the design and architectural features of the principal elevation and any side elevation that fronts a highway;
  - the provision of adequate natural light in all habitable rooms of the new dwellinghouses;
  - the impact on the amenity of neighbouring premises including overlooking, privacy and the loss of light;
  - whether, because of the siting of the building, the development will impact on a protected views.
- . The new rights do not apply to buildings constructed before 1 July 1948 or after 5 March 2018.
- . Conversions would not be allowed if the floor to ceiling height of any additional storey, measured internally, would be lower than three metres or "the floor to ceiling height, measured internally, of any storey of the principal part" of the existing property.

None of the rights apply in conservation areas, national parks and the Norfolk Broads, areas of outstanding natural beauty, or sites of special scientific interest.