

Exploring the Changes to Permitted Development Rights

15 October 2024



Permitted Development Rights 2024

The Gift with Strings Attached –
Unwrap the Opportunities, without
Getting Tied Up in Red Tape

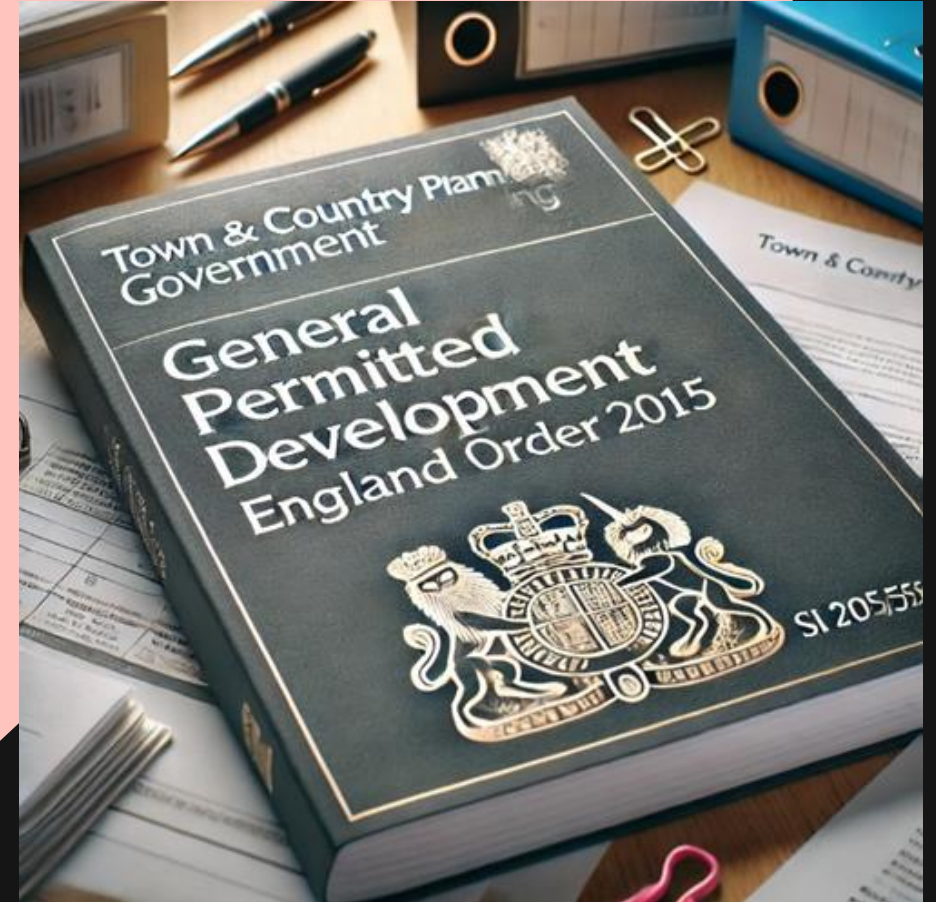
(Shruti Trivedi
Devello Group)



Introduction

Town and Country Planning (General Permitted Development)(England)

Order 2015
(SI 2015/596)



What is development?

Is planning permission required?

What is operational development?

What is a material change of use?



Is planning permission required?

Is permission required?

Planning permission is required for the carrying out of any development of land (section 57(1), TCPA 1990).

The definition of development is found in section 55(1) of the TCPA 1990 and includes the following categories:

- + the carrying out of building, engineering, mining or other operations in, on, over or under land (often referred to as “operational development”).
- + the making of any material change in the use of any buildings or other land (often referred to as a “change of use”).

What is operational development?

Section 55 (1A)

What is development?

For the purposes of this Act “building operations” includes:

- (a) demolition of buildings;
- (b) rebuilding;
- (c) structural alterations of or additions to buildings; and
- (d) other operations normally undertaken by a person carrying on business as a builder.

There is little guidance in the Act as to the meaning of “engineering operations” or “mining operations, but s336(1) states:

- + “engineering operations” include "the formation or laying out of means of access to highways"
- + "minerals" include "all minerals and substances in or under land of a kind ordinarily worked for removal by underground or surface working, except that it does not include peat cut for purposes other than sale."

What is a material change of use?

What is change of use?

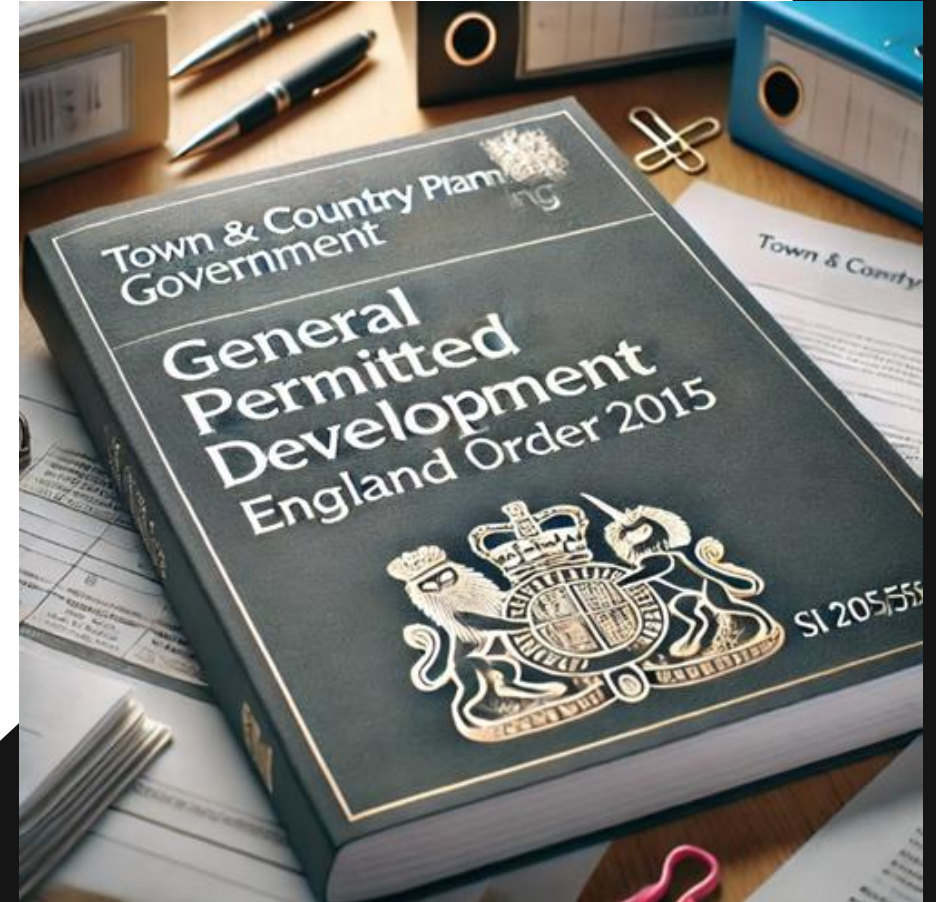
Planning permission is required for the carrying out of any development of land (section 57(1), TCPA 1990).

The main highlights:

- + A distinction should be drawn between the primary use of land and the ancillary uses which accompany it (Williams v Minister of Housing and Local Government (1967) 18 P & CR 514)
- + A change need not be a change to a different kind of use altogether (such as from residential to industrial) before it may be regarded as material, and that changes in the character of a use may suffice (Blum v Secretary of State for the Environment [1987] JPL 278)
- + A material change can occur where an existing use is intensified, so that although the same description may still be applied to it, it has undergone a change in character (Blum v Secretary of State for the Environment [1987] JPL 278)
- + Whether or not a change of use is material is a question of fact and degree in every case for decision by the local planning authority (East Barnet UDC v British Transport Commission [1962] 2 QB 484 (Div Court))

Town and Country Planning (General Permitted Development)(England)

Order 2015
(SI 2015/596)



Schedule 2

GDPO 2015

Part 1:	Development within the curtilage of a dwellinghouse
Part 2:	Minor operations
Part 3:	Changes of use
Part 4:	Temporary buildings and uses
Part 5:	Caravan sites and recreational campsites
Part 6:	Agricultural and forestry
Part 7:	Non-domestic extensions, alterations etc.
Part 8:	Transport related development
Part 9:	Development relating to roads
Part 10:	Repairs to services
Part 11:	Heritage and demolition
Part 12:	Development by local authorities
Part 13:	Water and sewerage
Part 14:	Renewable energy
Part 15:	Power related development
Part 16:	Communications

Schedule 2

Part 3 (Changes of Use)

GDPO 2015

Class G:	(commercial use to mixed use)
Class M:	(certain uses to dwellinghouses)
Class O:	(offices to dwellinghouses)
Class Q:	(buildings on agricultural units and former agricultural buildings to dwellinghouses)
Class R:	(agricultural buildings to a flexible commercial use)

Town and Country Planning Use Classes

TCP(UC)O 2020

Class B:	general industrial and storage or distribution;
Class C:	hotels, residential institutions, dwelling houses, and houses in multiple occupation;
Class E:	various commercial uses;
Class F:	learning and non-residential institutions, as well as local community establishments.



Town and Country Planning

(General Permitted Development)
(England) (Amendment) (No.2)

Order 2020



Town and Country Planning (General Permitted Development) (England) (Amendment) (No.2)

GDPO 2020

- + Class MA, which broadened PDRs to encompass the then-new Use Class E, enabling the conversion of shops, offices, restaurants, and cafes into residential buildings.
- + Classes ZA, A, AA, AB, AC, and AD to add to the existing Class G, which was extended to incorporate buildings in the new Class E.

So, in practice, many buildings can now be converted to residential use, including building on top of them with extra stories (airspace development) or demolishing and rebuilding, via a simplified planning application with a presumption in favour of consent.

Town and Country Planning (General Permitted Development) (England) (Amendment)

Order 2024

- + Class MA (which permits the change of use of some commercial buildings to dwellings),
- + the construction and extension of buildings for agricultural use;
- +
Classes Q and R, which allow dwellings to be formed from prior agricultural or commercial use, or commercial use from prior agricultural use.

Benefits of PDRs

Benefits of PDRs

- + Changes in use from one activity to another, e.g. a retail space may be converted into a restaurant or office space;
- + Conversion of buildings into alternative uses, such as converting an office building into residential flats;
- + the erection of temporary structures for commercial purposes, such as pop-up shops or event spaces, which provide businesses with flexibility for accommodating seasonal demands;
- + exterior alterations, such as the installation of signs or the erection of fences or walls; or
- + changes in operating hours for commercial premises without the need for planning permission, which is a particular advantage to businesses adapting to changing market conditions or customer preferences.

Restrictions

Restrictions

- + Listed Buildings
- + Conservation Areas
- + National Parks and AONBs
- + Article 4 Directions
- + Conditions
- + Further Legislative Amendments

Summary

- + Are your plans actually “development” in the first place?
- + The Order is complex and has various caveats and many hidden traps
- + You can use PDRs in various ways to your benefit.
- + Be aware of the limitations.



**Thank you
for listening**



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A vertical strip on the left side of the slide shows a stack of architectural blueprints. The top sheet is partially unrolled, revealing a detailed site plan or floor plan with various lines, shapes, and text. The blueprints are in black ink on a light-colored paper.

Permitted Development Rights

Changes of Use

Jacqueline Jackson MRTPI



Permitted Changes of Use
within the GPDO

The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3;

	Subject to prior approval?
Class A – from casino, betting office, pay day loan shop or hot food takeaway to commercial (use class E)	No
Class AA – from pub, wine bar or drinking establishment to drinking establishment with expanded food provision and vice versa	No
Class G – from betting office, pay day loan shop or commercial (use class E) to mixed use of commercial (use class E) and up to 2 flats	Yes
Class H - from mixed use as a betting office/pay day loan shop and up to 2 flats or mixed use as commercial (use class E) and up to 2 flats to commercial (use class E)	No
Class I - from general industrial (use class B2) to storage or distribution (use class B8)	No
Class L - from small HMO (use class C4) to dwellinghouse(s) (use class C3) and vice versa	No
Class M - from launderette, betting office, pay day loan shop or hot food takeaway or mixed use of one of the above and dwellinghouse(s) (use class C3) to dwellinghouse(s) (use class C3)	Yes
Class MA - from commercial (use class E) to dwellinghouse(s) (use class C3)	Yes
Class N - from amusement arcade/centre or casino to dwellinghouse(s) (use class C3)	Yes

Continued:	
Class Q - from agricultural building(s) to dwellinghouse(s) (class C3)	Yes
Class R - from agricultural building(s) to flexible use within one of the following classes: General industrial (B2), storage or distribution (class B8), hotel (class C1) or commercial (class E)	sometimes
Class S - from agricultural building(s) to state-funded school	Yes
Class T - from hotel (class C1), residential institution (class C2), secure residential institution (class C2A) or commercial (class E) to state-funded school	Yes
Class U - from state-funded school converted under Class T to previous lawful use	No
Class V - from a use specifically authorised by a planning permission to another use specifically authorised by the same planning permission	No

Almost all permitted changes of use are subject to limitations and conditions. A change of use will only be “permitted development” if it complies with all relevant limitations and conditions.

Prior Notifications and their pitfalls



The Town and Country Planning (General Permitted Development) (England)
Order 2015, Schedule 2, Part 3, **Class MA**
Change of use from commercial (use class E) to dwellinghouse(s) (use class C3)



Class Ma can NOT be used;

- Article 2(3) Land – AONB, SPA, the Broads, National Park, World Heritage Site
- Site of Special Scientific Interest (SSSI)
- Safety Hazard Zone
- Military Explosives Area
- Listed Building
- Scheduled Monument

The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, **Class Q** - Change of use from agricultural buildings to dwellinghouse(s)



Key changes to Class Q Regulations:

- buildings which have ceased being part of an existing agricultural unit may now be developed
- buildings which remain a part of an existing agricultural unit, but that are no longer used for agricultural purposes, may now be developed
- an increase in the overall cumulative floorspace of a development to 1000m²
- an increase in the number of dwelling houses to 10 (previously 5)
- the reduction in the floorspace of individual dwelling houses to a maximum of 150m²
- sites where development under Class A or Class B (of Part 6 Agricultural Rights) has taken place over ten years ago, may now be developed. [Click here for the full general permitted development legislation.](#)
- extensions at single storey to the rear of buildings by up to 4m onto a hard standing which was in place prior to 24th July 2023 may now be consented onto (the eaves of the extension must not exceed the eaves line of the existing building)
- 'reasonable changes' can continue to be made to allow the building to be used as a home including, the installation or replacement of windows, doors, roofing, exterior walls (i.e. the addition of insulation), water, drainage and other services, and these may protrude up to 0.2m.
- the proposed development must now meet national space standards
- The building must have suitable existing access to a public highway. This is new and adds clarity around the "other impractical or undesirable" criteria in the previous iteration of the regulations. The new wording makes expressly clear that the site must already be served by an access



Class Q - continued

Key case law

Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)

Considered what constituted work, which would go beyond what is “*reasonably necessary*” for the conversion of the building to residential use.

Court of Appeal in Mansall v Tonbridge and Belling Borough Council [2017] EWCA Civ 1314.

Fall Back position - case considered fall pack position and confirmed any permitted development fall-back position must be considered as a material consideration, where there is a “real prospect” of that fall-back coming to pass.



Other Key Changes of Use Classes



The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3

- **Class R** - agricultural building to a flexible commercial use
- **Class V** - from a use specifically authorised by a planning permission to another use specifically authorised by the same planning permission

The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 4

Class B – Temporary use of land



Thank you

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*AIR SPACE
DEVELOPMENTS.*

IS THE SKY THE LIMIT?

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PART 20 - CONSTRUCTION OF NEW DWELLINGHOUSES

Class ZA?

Class A?

Class AA?

Class AB?

Class AC?

Class AD?

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PRIOR APPROVAL – PERMISSION FOR PD?

WHAT COULD BE A CONSIDERATION UNDER PRIOR APPROVAL IN PART 20?

- Transport & highways
- Air traffic and defence assets (if increasing in height)
- Contamination
- Flood risk
- External appearance (Design)
- Natural light in all habitable rooms
- Impacts of noise from any commercial premises on the intended occupiers
- Impact on heritage and archaeology by the development
- Impact on increased residential user in the local area
- Landscaping
- Method of demolition
- Impact upon amenity space of the existing building and neighbouring ones
- Overlooking/privacy/loss of light
- impact on a protected view identified in the Directions Relating to Protected Vistas



CLASS ZA

Not just Airspace!
Demo and re-build...

CLASS ZA

EXISTING BUILDING

- Cannot be taller than 18m including masts and antennae.
- Cannot demolish only part of a building and/or more than 1 building.
- Must not exceed 1000m² footprint.
- Must have been constructed before 31st December 1989.
- Must not be in a restricted area.

PROPOSED BUILDING

- Must not be more than 7m taller than the existing even with the airspace additions
- Must be less than 18m overall.
- Will not have Permitted Development rights.
- Cannot then become a HMO.



CLASS A



Using up that Airspace.

CLASS A

EXISTING BUILDING

- Must have been constructed between 1st July 1948 and 5th March 2018
- Not available on any of the changes of use previously mentioned.
- Must be more 3 stories or more.
- Must be detached.
- Must not be in a restricted area.

PROPOSED BUILDING

- Must be less than 30m overall – excluding plant and machinery (watch out for HRB's!).
- Maximum additional height of 7m.
- Will not have Permitted Development rights.
- Access must be within the existing curtilage.
- Cannot then become an HMO.
- Bin location is important!



CLASS AA

Using up that Airspace...
above a detached mixed
use.



CLASS AA

EXISTING BUILDING

- Must have been constructed between 1st July 1948 and 5th March 2018.
- Must be more 3 stories or more.
- Must be detached.
- Must not be in a restricted area.
- Cannot currently be an HMO on the upper floors.

PROPOSED BUILDING

- Must be less than 30m overall – excluding plant and machinery (watch out for HRB's!).
- Maximum additional height of 7m above surrounding roofs.
- Must be constructed over the “principle” part of the Building.
- Access must be within the existing curtilage.
- Will not have Permitted Development rights.
- Cannot then become an HMO.
- Bin location is important!



CLASS AB



Using up that Airspace...
above an attached mixed
use.

CLASS AB

EXISTING BUILDING

- Must have been constructed between 1st July 1948 and 5th March 2018
- For Dwelling Houses, Flats (and Bungalows) in Class C3 only.
- For attached (terraced or semi buildings only)
- Must not be in a restricted area.
- Cannot currently be an HMO on the upper floors.

PROPOSED BUILDING

- Must be less than 18m overall
- Maximum additional height of 3.5m above a single storey building or 7m on multi storey buildings and above surrounding roofs.
- Must be constructed over the “principle” part of the Building.
- Access must be within the existing curtilage.
- Will not have Permitted Development rights.
- Cannot then become an HMO.
- Bin location is important!



CLASS AC

Diagram taken from Planning Insight Document.



Fancy a flat on top of
your house?
NO? Why Not?

CLASS AC

EXISTING BUILDING

- Must have been constructed between 1st July 1948 and 5th March 2018. Surely rules out most terraced houses?
- For Dwelling Houses and Bungalows in Class C3 only.
- For attached (terraced or semi buildings only)
- Must not be in a restricted area.
- Cannot currently be an HMO on the upper floors.

PROPOSED BUILDING

- Must be less than 18m overall
- Maximum additional height of 3.5m above a single storey building or 7m on multi storey buildings and above surrounding roofs.
- Must be constructed over the “principle” part of the Building.
- Access must be within the existing curtilage.
- Will not have Permitted Development rights.
- Cannot then become an HMO.
- Bin location is important!



CLASS AD



Fancy a flat on top of your
detached house then?
NO? No pleasing some
people!

CLASS AD

EXISTING BUILDING

- Must have been constructed between 1st July 1948 and 5th March 2018. Surely rules out most terraced houses?
- For Dwelling Houses and Bungalows in Class C3 only.
- Must be detached.
- Must not be in a restricted area.
- Cannot currently be an HMO on the upper floors.

PROPOSED BUILDING

- Must be less than 18m overall
- Maximum additional height of 3.5m above a single storey building or 7m on multi storey buildings and above surrounding roofs.
- Must be constructed over the “principle” part of the Building.
- Access must be within the existing curtilage.
- Will not have Permitted Development rights.
- Cannot then become an HMO.
- Bin location is important!



*OPPORTUNITY OR
HEADLINE GRABBER?*



Using up that Airspace.

	Old Use Class	New Use Class	PD Right 1	PD Right 2	PD Right 3
Detached Bungalow	<u>C3</u>	<u>C3</u>	<u>Class AA (Part 1)</u>	<u>Class AD</u>	
Detached House	<u>C3</u>	<u>C3</u>	<u>Class AA (Part 1)</u>	<u>Class AD</u>	
Semi-detached House	<u>C3</u>	<u>C3</u>	<u>Class AA (Part 1)</u>	<u>Class AC</u>	
Terraced House	<u>C3</u>	<u>C3</u>	<u>Class AA (Part 1)</u>	<u>Class AC</u>	
HMO	<u>C4</u>	<u>C4</u>	X	X	X
Shop	<u>A1</u>	<u>E</u>	<u>Class AA</u> (min 3 storeys detached)	<u>Class AB</u> (terraced)	<u>Class AC</u> (terraced)
Shop with flat above	<u>A1</u> / <u>C3</u>	<u>E</u> / <u>C3</u>	<u>Class AA</u> (min 3 storeys detached)	<u>Class AB</u> (terraced)	<u>Class AC</u> (terraced)
Detached block of flats	<u>C3</u>	<u>C3</u>	<u>Class ZA</u> (up to 1,000 m ² footprint)	<u>Class A</u> (min 3 storeys)	
Banks etc.	<u>A2</u>	<u>E</u>	<u>Class AA</u> (min 3 storeys detached)	<u>Class AB</u> (terraced)	<u>Class AC</u> (terraced)

	Old Use Class	New Use Class	PD Right 1	PD Right 2	PD Right 3
Restaurant & Cafés	A3	E	Class AA (min 3 storeys detached)	Class AB (terraced)	Class AC (terraced)
Offices	B1(a)	E	Class ZA (up to 1,000 m ² footprint)	Class AA (min 3 storeys detached)	Class AC (terraced)
Betting Office	Sui Generis	Sui Generis	Class AA (min 3 storeys detached)	Class AB (terraced)	Class AC (terraced)
Pay Day Loan Shop	Sui Generis	Sui Generis	Class AA (min 3 storeys detached)	Class AB (terraced)	Class AC (terraced)
Launderette	Sui Generis	Sui Generis	Class AA (min 3 storeys detached)	Class AB (terraced)	Class AC (terraced)
Detached Light Industrial	B1(c)	E	Class ZA (up to 1,000 m ² footprint)		
Detached Research & Development	B1(b)	E	Class ZA (up to 1,000 m ² footprint)		

SUMMARY





THANK YOU

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CHARTERED TOWN PLANNERS
& URBAN DESIGNERS

PERMITTED DEVELOPMENT

The Benefits

The Drawbacks

Top Tips

Jamie Pyper



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The Pros

1

Generally, less onerous than full planning permission and less consultees involved, therefore quicker.

2

Reduced validation criteria, therefore cheaper to submit.

3

Less scrutiny on subjective issues such as design.

4

Avoid s106 contributions such as affordables and BNG but not CIL!

5

An effective way to establish a fallback position and circumvent certain planning policy requirements.

The Cons

1 Often limitations in terms of floor space which doesn't suit every site.

2 Certain Prior Approvals such as Class Q have limitations on the size of curtilages.

3 Limitation on level of alteration/extensions.

4 There is subjectivity in some of the criteria.

5 Not necessarily any quicker than a planning application.

TOP TIPS!

1

The GPDO is constantly evolving and being updated. Ensure you are referencing the latest version.

2

Consider using Prior Approval to establish fallback position and avoid certain policy hurdles. This then makes any subsequent full application more straightforward.

3

Prior Approvals can be submitted in tandem with full applications, eg where a farmstead exceeds the floor space restrictions of Class Q.

4

Where demonstration of structural integrity of a building is required, choose your structural engineer carefully.

5

Ensure the building was used for the stated purpose on the specified date at the outset. Check if there are any time constraints on implementation/ completion.

6

Make sure the necessary technical reports are submitted to demonstrate that the proposals satisfy the relevant criteria.

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