

This past week, we have seen numerous announcements about proposed changes to policy and planning legislation.

The proposals aim to tackle the housing crisis and allow for greater flexibility when delivering homes.

Although consultations are currently open for some of the proposed measures, in this update, we have summarised the main expected changes:

Building on Brownfield

This proposal includes two main recommendations regarding developments in brownfield. Firstly, it would require England's 20 largest urban areas to apply a presumption in favour of sustainable brownfield development when they do not meet 95% of their Housing Delivery Test targets over the previous three years.

As the [consultation](#) sets out, the National Planning Policy Framework (NPPF) at Paragraph 11 notes that there is a presumption in favour of sustainable development when any local authority scores below 75% in the Housing Delivery Test. The government now proposes to apply a similar tilted balance to brownfield development. This may go some way to addressing the downtrend in housing delivery throughout many local authority areas.

The second proposal encourages all local authorities to give significant weight to the benefits of delivering as many homes as possible, especially when this involves previously developed land. Local planning authorities are invited to take a more flexible approach when applying their guidance and policies relating to internal layout, to ensure the most efficient use of a site.

Additional wording is proposed to be added to Paragraph 129(c) to reflect this new guidance and will seek to supplement the existing wording in paragraph 124(c) of the NPPF, which encourages planning policies and decisions to "give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs".

The consultation will run until 26 March 2024. The amendments, if confirmed, may provide a degree of additional weight in terms of incentivising brownfield development, and thus, the delivery of housing on such sites. Whether or not this will lead to more positive decisions being made, however, remains to be seen.

Residential Development in Commercial Buildings

The [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) Order 2024](#) has also been published and will come into force on 5 March 2024. This introduces modifications to Class MA of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), which permits the change of use of any building and any land within its curtilage from Class E to Class C3. The amendments will omit paragraphs (a) and (c) from Paragraph MA.1, which currently deal with the following:

- A requirement to demonstrate that the building has been vacant for a continuous period of at least three months immediately prior to the date of an application for prior approval
- A requirement for the cumulative floorspace of the existing building changing use under Class MA to not exceed 1,500 square metres

The amendments will not remove the requirement for prior approval from the local planning authority to be obtained.

The Department for Levelling Up, Housing and Communities is expected to produce and publish a full report on the effects of these amendments on the costs of business, and the voluntary and public sectors. However, removals of restrictions that would otherwise prohibit changes of use taking place will undoubtedly enlarge the pool of viable commercial buildings.

Next Steps

For more information on how these changes can affect any proposed developments or future planning permissions, please contact a member of our Planning team.

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