

New permitted development rights and the challenges they face



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Topics – a busy year so far!

- 1) Town and Country Planning (General Permitted Development) (England) Order 2015
 - a) Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2020/330
 - b) Town and Country Planning (General Permitted development) (Coronavirus) (England) (Amendment) Order 2020/412
 - c) Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020/632
 - d) Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020/755
 - e) Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 3) Order 2020/756

- 2) Rights Community Action Limited v SSHCLG CO/3024/2020

Coronavirus Amendments

- 24.3.2020 – 2020/330 – Class DA
 - Temporary takeaways (any purposes within Class A5) – Class A3 or A4 or mixed A3/A4 and Class AA
 - Notification not prior approval
 - 24.3.2020 – 23.3.2021
- 9.4.2020 – 2020/412 – New Pt. 12 to Sch. 2
 - Class A – development by Local Authorities and Health Service Bodies
 - Land owned, leased or occupied by LA/HSB
 - Purpose: preventing an emergency; reducing, controlling or mitigating the effects of an emergency; or taking other action in connection with emergency

2020/632 – Pt. 4 & Pt. 12

- New Class BA in Pt. 4, Sch. 2
 - Additional temporary use of land during relevant period (and moveable structure)
 - In addition to Class B of Pt. 4, Sch. 2
 - 28 days in total
 - 14 day limit for markets, motor car and motorcycle racing
 - Relevant period: 1.7.2020 – 31.12.2020
- New Class BA in Pt. 12, Sch. 2
 - Temporary holding of market by or on behalf of a local authority and the provisions on the land of any moveable structure for the permitted use
 - Relevant period: 25.6.2020 – 23.3.2021

2020/632 – Pt. 20 - scope

- NEW - Class A – New dwellinghouses on detached blocks of flats
- “construction of up to two additional storeys of new dwellinghouse immediately above the existing topmost residential storey on a building which is a purpose built, detached block of flats”
- Ancillary operational development
- Tight limitations – construction, height, location, floor to ceiling height, type of dwellinghouse, height, visible support structures, some engineering operations

2020/632 – Pt. 20 – conditions

- Conditions
 - prior approval in advance: transport/highways; air traffic & defence; contamination; flooding; external appearance; natural light; amenity; protected views
 - New procedure for prior approval – extensive plans
 - 3 year completion limit
 - Pre-commencement reporting – hours of operation, noise, dust, vibration, traffic
 - Completion notification in writing
 - Class C3 use

2020/632 – Pt. 20 – definitions

- Interpretation:
 - “block of flats” means a building which is divided horizontally and consists of separate and self-contained premises construed for use for the purposes of a dwellinghouse, and any ancillary facilities constructed solely for use by occupiers of the building
 - “habitable rooms” means any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms
 - “purpose-built” means a building that was built as and remains as a block of flats

2020/755 – Pt. 1

- Class AA – enlargement of a dwellinghouse by construction of additional storeys
 - Up to two additional storeys where the existing dwellinghouse consists of two or more storeys; OR
 - One additional storey where the existing dwellinghouse consists of one storey
- Limitations: date of construction, previous enlargement, height, floor to ceiling height, location, visible support structures, engineering operations.
- Conditions:
 - similar materials; windows in side elevations; roof pitch; use
 - pre-commencement prior approval: amenity external appearance; air traffic & defence; protected views
 - pre-commencement report & completion report
 - 3 year time limit

2020/755 – Pt 20

- Amendments to Class A!
- New Class AA- new dwellinghouses on detached buildings in commercial or mixed use
 - Two additional storeys of new dwellinghouses
 - Class A1, Class A2, Class A3, or Class B1(a), betting office, pay day loan shop or launderette or mixed use of foregoing (inc. with Class C3)
- Limitations: height; date of construction; use as at 5.3.2018; location; floor to ceiling height, visible support; engineering operations; extent.
- Conditions: pre-commencement prior approval (similar issues plus impact on “commercial premises”); 3 year time limit; pre-commencement and completion reports; use

2020/755 - Pt. 20

- Similarly:
 - Class AB – new dwellinghouses on terrace buildings in commercial or mixed use
 - Class AC – new dwellinghouses on terrace buildings in use as dwellinghouses
 - Class AD – new dwellinghouses on detached buildings in use as dwellinghouses

2020/756 – Pt. 20

- Class ZA - demolition of buildings and construction of new dwellinghouses in their place
 - Demolition: single purpose-built detached block of flats; and any other single detached building in use within Class B1(a), B1(b) or B1(c) (or any combination).
 - New building: purpose built block of flats or purpose built dwellinghouse
- Limitations – use/designations of land; date of construction; footprint; height; vacancy period; sabotage, Conservation Areas
- Conditions – pre-commencement prior approval (similar matters plus demolition, heritage, landscaping); 3 year time limit; pre-commencement report; post-completion notification; use.

Community Rights Action v SSCLG

- Grounds:
 - SEA Directive
 - PSED
 - “*failed to consider the weight of evidence*” – consultation, Living with Beauty Report and re-consultation
- No interim relief
- Rolled up hearing: 14 – 15th October

Thank you for listening

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