



## PLANNING

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REFERENCE

GN41-21

PERMITTED DEVELOPMENT RIGHTS FOR AGRICULTURAL  
AND FORESTRY DEVELOPMENT – ENGLAND ONLY

**(This guidance note replaces GN18-19 which should be deleted from your files)**

This Guidance Note summarises Part 6 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (GPDO 2015) (SI 2015 596) (as amended) which relates to permitted development rights for agricultural buildings and operations and for forestry buildings and operations. A link to the GPDO 2015 Schedule 2 can be found [here](#)

Separate CLA Guidance Notes are available for Wales for permitted development rights for agricultural buildings and operations, and forestry buildings and operations respectively. They can be found on the following link and are clearly marked 'Wales only'. <https://www.cla.org.uk/advice>

## 1. WHAT IS 'PERMITTED DEVELOPMENT'?

'Permitted development' is development which has been granted planning permission by the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO 2015).

The amount of permitted development which may be allowable in any particular case may depend on some or all of the following: area of land; location; position on the site; size; height; height in relation to existing structures; extent of any previous development on the site etc.

## 2. CLASSES A & B – AGRICULTURAL DEVELOPMENT

### 2.1 INTRODUCTION

Most new agricultural buildings, including alterations to existing buildings, engineering works and fundamental change of use of agricultural buildings or agricultural land are developments controlled by the planning system and will, in many cases, require planning permission.

Certain developments are permitted by the GPDO 2015 (as amended), and it may not be necessary for planning applications to be made for such development. However, some of these 'permitted developments' need to be notified to the planning authority **before** the development takes place. This is known as prior approval whereby proposals must be submitted for a determination as to whether details of siting, design or external appearance will be required. More details on prior approval can be found throughout this Guidance Note.

Development for the purposes of agriculture on an established agricultural unit depends primarily on the size of the unit. Agricultural permitted development falls into two classes:

- Class A – Agricultural development on units of more than 5 hectares in area.
- Class B – Agricultural development on units of between 0.4 and 5 hectares in area.

The two Classes are mutually exclusive. Class B rights do not extend to agricultural units exceeding five hectares. Although the specific operations permitted by Class B are also, for the most part, within the more broadly defined test under Class A, it is against Class A, rather than Class B, that development on units over five hectares must be justified.

### 2.2 PRE-QUALIFYING CRITERIA

It is especially important to note that all permitted development for agricultural buildings and operations under Classes A and B are subject to the provisos that the development must be:

- 'Reasonably necessary for the purposes of agriculture within the unit'.
- the land must be in use for agriculture; and
- is so used for the purposes of an agricultural trade or business.

Those wishing to use permitted development rights under Part 6 must satisfy themselves that the holding and proposed development is compliant with three criteria set out above. If for any reason the holding and/or development does not comply with these criteria, then planning permission will be required for the proposed development. See definition of agriculture at section 3.4.

## 2.3 DEFINITION OF AGRICULTURE

For ease of reference the definition of agriculture (s336 town & country planning act 1990) is as follows:

*“Agriculture includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins and fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly.”*

## 2.4 UNITS OF LESS THAN 0.4 HECTARES

There are no permitted development rights for units of less than 0.4 hectares (1 acre), thus on such units all new buildings and engineering works, including alterations to existing buildings and fundamental changes of use of agricultural land, require planning permission.

## 2.5 CLASS A – AGRICULTURAL DEVELOPMENT ON UNITS OF 5 HECTARES OR MORE (12.5 acres)

Class A provides a relatively simple list of permitted development rights, although subject to conditions, limitations and exclusions, including the need for the planning authority’s prior approval before they take place.

If your development does not come within the limitations, exclusions and conditions specified below, you will need to apply for full planning permission for your proposed development.

### 2.5.1 What is permitted development under Class A?

*“The carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of-*

- (a) works for the erection, extension or alteration of a building; or*
- (b) any excavation or engineering operations which are reasonably necessary for the purposes of agriculture within that unit.”*

However, you must take account of the limitations, exclusions and conditions set out below.

### 2.5.2 What is not permitted development under Class A

Development is not permitted:

- (a) If the development is located on a separate parcel of land that forms part of the unit, which is less than 1 hectare in area.
- (b) Where development, previously, has been carried out under GPDO 2015 Part 3 under Class Q or S within a period of 10 years ending with the date on which development under Class A(a) begins, then it is not possible to apply for a new agricultural building on an established agricultural unit under GPDO 2015 Part 6 Class, instead full planning permission will be required.
- (c) If it would consist of, or include the erection, extension or alteration of a dwelling.

- (d) It would involve the provision of a building, structures or works not designed for agricultural purposes.
- (e) The ground area which would be covered by -
  - (i) any works or structure (other than a fence) for accommodating livestock or any plant or machinery arising from engineering operations; or
  - (ii) any building erected or extended or altered by virtue of Class A, would exceed [1000] square metres.

**Note:** see Section 5 below for a summary of the GPDO 2015 (as amended) Interpretation of Classes A to C for an explanation of the ground area calculation

- (f) The height or any part of any building, structure or works within 3 kilometres of the perimeter of an aerodrome would exceed 3 metres.
- (g) The height of any part of any building, structure or works not within 3 kilometres of the perimeter of any aerodrome would exceed 12 metres.
- (h) Any part of the development would be within 25 metres of a metalled part of a trunk road or classified road.
- (i) It would consist of, or include the erection or construction of, or the carrying out of any works, to a building, structure or an excavation used or to be used for the accommodation of livestock or for the storage of slurry or sewage sludge where the building, structure or excavation is, or would be, within 400 metres of the curtilage of a protected building.
- (j) It would involve excavations or engineering operations on or over Article 2(4) land which are connected with fish farming; or
- (k) Any building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system -
  - (i) Would be used for storing waste not produced by that boiler or system or for storing fuel not produced on land within the unit; or
  - (ii) Is or would be within 400 metres of the curtilage of a protected building.

### 2.5.3 When is prior approval required?

A prior approval notification application must be submitted, before development commences, for the following types of development:

- (i) The erection of a new building on the grounds of siting, design and external appearance, including areas of hardstanding.
- (ii) The “significant” extension or alteration of a building i.e., building works that are classified as a significant extension or significant alteration which is one where the cubic content of the original building would be exceeded by more than 10%, or the height of the building as extended or altered would exceed the height of the original building.
- (iii) Formation or extension of a private way on the grounds of siting and means of construction.
- (iv) Excavations and deposits of waste materials, where the relevant area exceeds 0.5 hectares (see P 5 Interpretation below for calculation of the relevant area).
- (v) Placing or assembly of tanks or cages in any waters. The GPDO 2015 provides further conditions, and it is suggested that members contact their own professional adviser or CLA advisory staff for further information.
- (vi) On Article 2(4) land in addition to (i) to (v) above, prior approval is also required for the extension and alteration of a building.

#### 2.5.4 A summary of other conditions under Class A include:

A building or structure must not be located within 400 metres of the curtilage of a “protected building” if it is to be used for slurry (including farmyard manure) or sewage sludge storage, or for housing a biomass boiler or an anaerobic digestion system, for storage of fuel or waste from that boiler or system, or for housing a hydro-turbine.

However, if there is a need to accommodate livestock for quarantine or emergency purposes or temporary accommodation for sick animals or adverse weather conditions, there is an exception to the 400-metre distance from a “protected building” requirement. For further information, see Paragraph 3.5 below.

If any minerals are extracted from the holding and are for use on the same holding from which they are being extracted, then in theory this does not require planning permission. If the extracted minerals are to be removed from the holding, they will require planning permission.

Waste materials must not be brought onto a holding unless they are for use in works described in Class A(a) or in the provision of a hard surface. Any materials used for Class A(a) works must be incorporated into the works “*forthwith*”.

Other conditions relating to new farm buildings erected under Class A are:

- Buildings and/or extensions built under the prior approval procedure which cease to be used for agriculture **within 10 years** of substantial completion, must be removed and the land restored unless planning permission has been granted for a change of use.
- Development consisting of the significant extension or alteration of a building may only be carried out once by virtue of Class A(a).
- The developer must give notice of the completion of the building to the planning authority within 7 days of that completion.
- Lastly, we reiterate that if use has been made of GPDO 2015 Part 3 Class Q (change of use of farm buildings to dwellings) then you will be unable to use Part 6 Class A for a period of up to 10 years. A full planning application will have to be submitted for a new farm building in these circumstances.

## 2.6 CLASS B – AGRICULTURAL DEVELOPMENT ON UNITS OF LESS THAN 5 HECTARES

### 2.6.1 What is permitted development under Class B?

Class B is more complex than Class A. It provides a long list of permitted development rights for agricultural holdings of between 0.4 and less than 5 hectares, together with a long list of conditions for each development type. This guidance provides a summary and members are requested to consult the GPDO 2015 itself for full details.

The Class B permitted development rights are as follows:

*“The carrying out on agricultural land comprised in an agricultural unit, of not less than 0.4 but less than 5 hectares in area, of development consisting of-*

- (a) the extension or alteration of an agricultural building.*
- (b) the installation of additional or replacement plant or machinery.*
- (c) the provision, rearrangement or replacement of a sewer, main, pipe, cable or other apparatus.*
- (d) the provision, rearrangement or replacement of a private way.*
- (e) the provision of a hard surface.*
- (f) the deposit of waste; or*
- (g) the carrying out of any of the following operations in connection with fish farming, namely repairing ponds or raceways; the installation of grading machinery, aeration equipment or flow meters and any associated channel; the dredging of ponds; and the replacement of tanks and nets.*

*where the development is reasonably necessary for the purposes of agriculture within the unit.”*

The above list is subject to various conditions, limitations and exclusions which are summarised below.

## **2.6.2 What is not permitted development under Class B**

Regulations B1 to B4 are set out below.

### **B.1 Development is not permitted by Class B if:**

- (a) The proposed development would be carried out on a separate parcel of land forming part of the unit which is less than 0.4 hectares in area.*
- (b) The external appearance of the premises would be materially affected.*
- (c) Any part of the development would be within 25 metres of a metalled part of a trunk road or classified road.*
- (d) It would consist of, or involve, the carrying out of any works to a building or structure used or to be used for the accommodation of livestock or the storage of slurry or sewage where the building or structure is within 400 metres of a protected building.*
- (e) It would relate to fish farming and would involve the placing or assembly of a tank on land or in any waters or the construction of a pond in which fish may be kept or an increase (otherwise than by the removal of silt) in the size of any tank or pond in which fish may be kept; or*
- (f) Any building for storing fuel or waste from a biomass boiler or an anaerobic digestion system would be used for storing waste not produced by that boiler or system or for storing fuel not produced on land within the unit.*

### **B.2 Development is not permitted by Class B(a) if:**

- (a) The height of any building would be increased.*
- (b) The cubic content of the original building would be increased by more than 20%.*
- (c) Any part of the new building would be more than 30 metres from the original building.*
- (d) It would consist of the extension or provision of any agricultural building on an established agricultural unit (as defined in Paragraph X of Part 3 (Changes of use) of the GPDO 2015 Schedule 2) where development under Class Q or S of Part 3 has been carried out within a period of 10 years ending with the date on which development under Class B(a) begins.*
- (e) The development would involve the extension, alteration or provision of a dwelling.*

- (f) *Any part of the development would be carried out within 5 metres of any boundary of the unit: or*
- (g) *The ground area of any building extended by virtue of Class B(a) would exceed 1000 square metres.*

**B.3 Development is not permitted by Class B(b) if:**

- (a) *The height of any additional plant or machinery within 3 kilometres of the perimeter of an aerodrome would exceed 3 metres.*
- (b) *The height of any additional plant or machinery not within 3 kilometres of the perimeter of an aerodrome would exceed 12 metres.*
- (c) *The height of any replacement plant or machinery would exceed that of the plant or machinery being replaced: or*
- (d) *The area to be covered by the development would exceed 1000 square metres calculated as described in paragraph D.1(2)(a) of Part 6.*

**B.4 Development is not permitted by Class B(e) if:**

The area to be covered by the development would exceed 1000square metres calculated as described in paragraph D.1(2)(a) of Part 6 – also see Section 5 Interpretation below.

### 2.6.3 Class B Conditions

**B.5(1)** If there is a need to accommodate livestock for quarantine or emergency purposes or temporary accommodation for sick animals or adverse weather conditions, there is an exception to the 400-metre distance from a “protected building” requirement. For further information, see section 3.5 below for more information.

**B.5(2)** Any extension or alteration of a building situated on Article 2(4) land, or the provision, rearrangement or replacement of a private way is permitted development subject to the requirement to apply to the planning authority for their prior approval before any development commences. The prior approval procedure is set out in GPDO 2015 Part 6 Paragraph A.2(2)(ii)-(iv) and summarised at Section 8 below on Page 14.

**B.5(3)** Development under Class B(f) is permitted provided no waste materials are brought onto the land from elsewhere for deposit unless they are for use in works described in Class B(a), (d) or (e) and are incorporated into the building or works forthwith and provided that the height of the land will not be materially increased by the deposit.

**B.5(4)** Development under Class B(a) is permitted subject to the following conditions:

- (i) If development consists of:
  - Works for the significant extension or significant alteration of a building; and
  - The use of the building or extension for the purposes of agriculture with the unit permanently ceases within 10 years from the date on which the development was substantially completed; and
  - Planning permission has not been granted on an application; or
  - Has not been deemed to be granted under Part 3 for development purposes other than agriculture.

then within 3 years from the date on which the use of the building or extension for the purposes of agriculture within the unit permanently ceased, unless the planning authority has otherwise agreed in writing, the extensions (in the case of development consisting of an extension) must be removed from the land and the land reinstated.

If an appeal has been lodged in respect of the change of use of a building (under Part 3) then the period is extended until the appeal is determined or withdrawn.

- (ii) The developer must give notice of the completion of the building to the planning authority within 7 days of that completion.

#### 2.6.4 When is prior approval required?

**B.5(2)** If the holding is located on Article 2(4) land the planning authority's prior approval is required for:

- (i) the extension or alteration of a building for siting, design and external appearance reasons;
- (ii) the provision, rearrangement or replacement of a private way for siting and means of the construction

### 2.8 FISH FARMS

'Permitted development' for fish farms is the same as for agricultural units, but with two differences where the size of the unit is between 0.4 ha and 5 ha. The first difference is that you **do** require planning permission for the placing of tanks on land or in water, or the construction of ponds or an increase in the size of tanks or ponds. The second difference is that you **do not** need planning permission for repairing ponds and raceways, the installation of grading machinery, aeration equipment or flow meters and any associated channel, the dredging of ponds and the replacement of tanks and nets, where development is reasonably necessary for the purposes of agriculture within the unit.

In all other respects the procedures for applying for planning permission, or notifying the local planning authorities, are the same for fish farms as for agricultural units.

### 2.9 EXCEPTION TO 400 METRES "PROTECTED BUILDING" REQUIREMENT – CLASS A AND CLASS B – Livestock quarantine or emergency housing

Class A.2(1)(a) and Class B.5(1) - If it can be demonstrated that no other suitable building or structure is available to accommodate livestock, then by reference to GPDO 2015 Part 6 para D.1(3), the only exception to development within 400 metres of a protected building is if there is a need to accommodate livestock for quarantine purposes, or in an emergency if another livestock building or structure is unavailable because it has been damaged or destroyed by fire flood or storm, or in the case of animals normally kept out of doors, they require temporary accommodation in a building or structure because they are sick or giving birth, or newly born, or to provide shelter against extreme weather conditions. This is a summary of GPDO 2015 Part 6 paragraph D.1(3).

**CLA advice:** It is strongly recommended that applicants consider the exact wording of Paragraph D.1(3) as set out in the GPDO 2015. It is also recommended that members advise their planning authority if they use this exception.

## 2.10 WHEN DEVELOPMENT IS NOT INVOLVED

Development is not involved in the following cases:

**Changes of use within agriculture** – A barn used to house agricultural machinery may be used for housing feedstuffs or livestock. However, the building cannot be used to house livestock if it is within 400m of a protected building.

Arable land can be changed for use as animal grazing and vice versa. Permanent pasture and uncultivated land can be changed for use to, say, arable or forestry uses, however, these types of changes will almost certainly require an Environmental Impact Assessment screening decision from Natural England before any change of use. Government guidance can be found [here](#).

An agricultural building may be converted to a farm shop, but only if it is selling produce from the holding and remains ancillary to the primary use of the land and buildings for agricultural purposes.

**Changes of use from non-agricultural to agricultural use** – it is possible to change the use of any land to an agricultural use without requiring planning permission. Land also includes buildings. A reversion to the previous non-agricultural use would require planning permission for change of use.

## 3. CLASS C – MINERAL WORKING FOR AGRICULTURAL PURPOSES

Development that is permitted is the winning and working on land held or occupied for the purposes of agriculture of any minerals reasonably necessary for agricultural purposes within the agricultural unit of which it forms part.

### Limitations and exclusions

- The development must not be located within 25m of a trunk or classified road (**n.b.** the measurement is taken from the metalled area);
- Minerals must not be removed outside the holding, except to land, which is held or occupied with that land, and is used for agricultural purposes.

## 4. INTERPRETATION OF CLASSES A TO C

The interpretation that surrounds Classes A, B and C will be found in GPDO 2015 Part 6 Paragraph D. What follows is a summary and members are strongly recommended to consult the regulations more fully for the full list of interpretations.

Below you will find the most commonly requested areas of interpretation.

**“Agricultural land”** means land which, before development permitted by this Part is carried out, is land in use for agriculture and which is so used for the purposes of a trade or business, and excludes any dwelling house or garden.

**“Agricultural unit”** means agricultural land which is occupied for the purposes of agriculture including-

- (a) Any dwelling or other building on that land occupied for the purpose of farming the land by the person who occupies the unit, or
- (b) Any dwelling on that land occupied by a farmworker:

**Ground area calculation for the purposes of Classes A, B and -** Paragraph D.1(2.)(a) sets out the methodology for calculating the area of development and states that the area comprises *“the ground area which would be covered by the proposed development, together with the ground area of any building (other than a dwelling), or any structure, works (including hard-standing(s)), plant, machinery, ponds or tanks within the same unit which are being provided or have been provided within the two preceding years and part of which would be within 90 metres of the proposed development”*

**Paragraph D.1(3) for the purposes of Classes A and B -** As mentioned above, a building or structure must not be used for livestock if it is within 400 metres of the curtilage of a "protected building" **except** where it is used for quarantine; emergency; temporary shelter (e.g., for lambing or bad weather) and there is no other alternative within 400 metres;

**“Protected building”** - A *“protected building” means any permanent building which is normally occupied by people or would be so occupied, if it were in use for purposes for which it is designed; but does not include:*

- (i) a building within the agricultural unit; or
- (ii) a dwelling or other building on another agricultural unit which is used for or in connection with agriculture.

**“Purposes of agriculture” for the purposes of Class C -** includes fertilising land use for the purposes of agriculture and the maintenance, improvement or alteration of any buildings, structures or works occupied or used for such purposes on land so used.

**“Reasonably necessary for the purposes of agriculture” for the purposes of Classes A(a) & B(a)-** includes, in relation to the erection, extension or alteration of a building, for housing a biomass boiler or an anaerobic digestion system, for storage of fuel for or waste from that boiler of system, or for housing a hydro-turbine.

**“Relevant Area”** - Paragraph D.1(4) means *“For the purposes of paragraph A.2(2)(c) relevant area is the area of the proposed excavation or the area on which it is proposed to deposit waste together with the aggregate of the areas of all other excavations within the unit which have not been filled and of all other parts of the unit on or under which waste has been deposited and has not been removed”;*

**“Significant extension” and “significant alteration”** - There is an **exception** with respect to alterations or extensions to agricultural buildings which are not “significant”. The definition of “significant” is where the existing height is exceeded, or the cubic content is increased by more than 10%. **CLA advice:** If you propose to extend your original building by less than 10%, and you do not intend raising the height then, in theory, you do not need to notify the planning authority – but remember that you will need to obtain planning permission if your alteration or extension does not come within the limitations of ‘permitted development’ set out above (in Classes A and B) e.g., the building is within 25 metres of a classified road etc. An original building means as originally built.

**Slurry** - means animal faeces and urine (whether or not water has been added for handling);

## 5. CLASS E – FORESTRY DEVELOPMENTS

The GPDO 2015 Part 6 Class E grants permission for forestry development. However, it is important to note that forestry is not an agricultural activity for the purposes of the Town and Country Planning Act 1990 (the 1990 Act) section 336(1) (see para 1 of this Guidance Note for definition), except for ancillary woodlands use, and hence there is no overlap between Part 6 Classes A, B, C and Class E.

Class E also allows for structures to house biomass boilers, anaerobic digestion systems and associated waste and fuel stores, and hydro-turbines, to be installed as permitted development on forestry land.

### 5.1 What is permitted development under Class E

Class E provides a relatively simple list of permitted development rights, although subject to conditions, limitations and exclusions, **including the need for the planning authority's prior approval before they take place.**

Class E permits the following:

*“The carrying out on land used for the purposes of forestry, including afforestation, of development reasonably necessary for those purposes consisting of:*

- (a) works for the erection, extension or alteration of a building*
- (b) the formation, alteration or maintenance of private ways.*
- (c) operations on that land or on land held or occupied with that land to obtain materials required for the formation, alteration or maintenance of such ways.*
- (d) other operations (not including engineering or mining operations).”*

Structures to house biomass boilers, anaerobic digestion systems and associated waste and fuel stores, and hydro turbines may be installed as permitted development on forestry land.

However, you must take account of the limitations, exclusions and conditions set out below.

### 5.2 What is not permitted development under Class E

Development is not permitted for:

- a building erected as a dwelling;
- a building that exceeds 3 metres in height and is located within 3 kilometres of an aerodrome.
- a building, private way, or other operation located within 25 metres of a trunk or classified road: and
- any building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system where the stored waste or fuel is not produced by that boiler or system on land which is occupied together with that building for the purposes of forestry.

## 5.3 Conditions

### 5.3.1 When is prior approval required?

There is a general requirement of prior approval notification to the planning authority **before** exercising permitted development rights under Class E, except for extensions and alterations to buildings that are not “significant”.

A prior approval notification application should be submitted for the following types of development:

- (i) The erection of a new building on the grounds of siting, design and external appearance.
- (ii) The “significant” extension or alteration of a building i.e., building works that are classified as a “significant” extension or “significant” alteration which is one where the cubic content of the original building would be exceeded by more than 10%, or the height of the building as extended or altered would exceed the height of the original building.
- (iii) the formation of a private way on the grounds of siting and means of construction.

### 5.3.2 Other conditions

In the case of development consisting of the significant extension or significant alteration of a building, such development can only take place **once**.

Any works to a building or private way which is located on Article 2(4) land prior approval will be required.

## 5.4 Class E Interpretation

In Class E, E.3(1) “**significant extension**” or “**significant alteration**” means any extension or alteration, as the case may be, of the building where the cubic content of the original building would be exceeded by more than 10% or the height of the building as extended or altered would exceed the height of the original building.

In Class E, E.3(2) provides that development that is **reasonably necessary for the purposes of forestry** includes works for the erection, extension or alteration of a building for housing a biomass boiler or an anaerobic digestion system; for storage of fuel or waste from that boiler or system; or for housing a hydro-turbine.

## 5.5 CLA commentary on Class E

There are no restrictions on the size of a forestry building, unlike Classes A and B, nor any requirement that the forestry must be run as a trade or business. Furthermore, full permitted development rights apply to any size of forestry holding no matter how big or small.

Under Class E a range of forestry buildings can be erected, altered or extended without requiring full planning permission, but they will require prior approval from the planning authority before development commences. These forestry buildings may include a tool shed, store, office or shelter provided they are required for the purposes of forestry on the holding.

Works for the erection, extension or alteration of a building for housing a biomass boiler or an anaerobic digestion system; for storage of fuel or waste from that boiler or system; or for housing

a hydro-turbine, must be reasonably necessary for the purposes of forestry on the holding. But these buildings cannot be used to store fuel for or waste from a biomass boiler or an anaerobic digestion system that is not produced by that boiler or system or for storing fuel not produced on land which is occupied together with that building for the purposes of forestry. In other words, fuel or waste cannot be brought onto a forestry holding from other sources under these permitted development rights. The effect of this is to mean that if fuel or waste is to be brought in from other holdings, then it is likely the entire development will require full planning permission.

The formation, alteration or maintenance of a private way for forestry purposes is also permitted development, subject to prior approval. It is important to note that any building or track must be used for the purposes of forestry, and not, for example, primarily for domestic, leisure, shooting or educational activities.

Other operations reasonably necessary for forestry purposes are permitted development, which may involve extracting minerals for the purpose. But there is no general right for minerals extraction under Class E and mining operations are expressly excluded from the “other operations” permitted by Class E.

### **5.6 Processing and finishing of wood – is planning permission required?**

The processing and finishing of wood on forestry land is a grey area within planning law. There is no definition of ‘forestry’ in the 1990 Act (as there is for ‘agriculture’ under s336 of the 1990 Act), so it is unclear whether activities such as charcoal burning, greenwood turnery, planing, chipping etc are to be regarded as ancillary to forestry, or a material change of use requiring planning permission. If these processing activities are undertaken on a *de minimis* (very small) scale, then it is possible the unauthorised activity may be considered insignificant by the planning authority and thus may not require planning permission for change of use. If the majority of the timber used in these activities is brought onto the holding from elsewhere, then it is possible that planning permission will be required. Any retail activity from a forestry holding will require planning permission.

Further advice may be sought from the CLA advisory team.

## **6. PRIOR APPROVAL PROCEDURE FOR CLASSES A, B & E**

Under the Prior Notification procedure set out in GPDO 2015, the planning authority has 28 days, following the date of receipt by the planning authority, in which to decide whether its prior approval will be required. The regulations set out the prior approval process for Classes A, B and E. As they are roughly similar procedures, we summarise the process below. Members are strongly advised, however, to check the regulations for the relevant procedures.

### **6.1 The Prior Notification procedure**

Before beginning any development that requires prior approval, the developer must apply to the planning authority for a determination as to whether the planning authority’s prior approval will be required for the proposed development.

The application form is obtainable from the [Planning Portal website](#) or from your planning authority website.

The form must be accompanied by

- a written description of the proposed development including the materials to be used.
- a plan indicating the site; and
- the relevant fee required to be paid – the up-to-date table of planning fees can be found here: [https://ecab.planningportal.co.uk/uploads/english\\_application\\_fees.pdf](https://ecab.planningportal.co.uk/uploads/english_application_fees.pdf)

## **6.2 Determination period**

The regulations are very clear that the planning authority has 28 days, following the date of receipt by the planning authority, in which to issue a decision.

## **6.3 When can development commence?**

The regulations state that development cannot begin before the occurrence of one of the following:

- a) Receipt by the applicant from the planning authority of a written notice of their determination that the planning authority's prior approval is not required.
- b) Receipt by the applicant of a written notice from the planning authority of written notice giving their prior approval.
- c) "The expiry of 28 days following the date on which the application was received by the planning authority without the authority without the planning authority making any determination as to whether such approval is required or notifying the applicant as to whether prior approval is given or refused."

## **6.4 If the planning authority notifies that its prior approval is required:**

- the applicant will be required to display a site notice on or near the land subject to the prior approval application, for a period of 21 days in the period of 28 days from the date on which the planning authority gave notice to the applicant. and
- if the site notice, through no fault of the applicant, is removed, obscured or defaced during the 21-day display period, the applicant will be treated as having complied with the site notice requirement if the applicant has taken reasonable steps for protection of the notice.

## **6.5 Development must be carried out in accordance with details provided to the planning authority:**

- The development must be carried out in accordance with the details approved by the planning authority where prior approval was required.
- If prior approval was not required, the development must be carried in accordance with the details submitted with the application.

## **6.6 Five years to carry out development:**

The development must be carried out:

- where approval has been given by the planning authority within a period of 5 years from the date on which approval is given.

- in any other case within a period of 5 years from the date on which the planning authority were given the information (i.e., application, written description including materials to be used, plan and fee).

## 6.7 ADVICE

A prior approval application only covers the issues which are the subject of the notification i.e., design, siting and external appearance. The planning authority's failure to respond does not mean that something that is not agricultural, or forestry can be treated as though it is. In other words, if the planning authority fails to respond to the Prior Notification application, it can still take enforcement action if it considers that the development does not comply with the definition of agriculture or is unrelated to forestry and/or the development does not comply with the definitional criteria set out in Part 6.

## 7. LEGAL DECISIONS

There have been a number of legal decisions on the subject of permitted development rights especially concerning the prior notification and approval process. Three of these decisions, the most recent being June 2021, are summarised in CLA guidance note entitled ***Permitted Development Rights: Prior approval procedure – legal*** decisions which can be found at [www.cla.org.uk/advice](http://www.cla.org.uk/advice).

## 8. OTHER CONSENTS AND MATTERS TO NOTE

Members should be aware that permitted development rights provided under the GPDO do not obviate the need to obtain other consents (e.g., Natural England, Forestry Commission, Environment Agency, and Highways Agency etc) where appropriate. For example:

**Tree Preservation Orders (TPO)** - Planning permission is not required for forestry work, except where there is a Tree Preservation Order. However, planning permission is always required for non-forestry uses of land, buildings or any other form of development. Prior notification will be required in order to carry out any work to trees within a Conservation Area that are not protected by a TPO.

**Felling licences** – A felling licence from the Forestry Commission will be required for the felling of more than 5 cubic metres of timber per quarter per calendar year. However, trees below 7cm diameter at 1.4m above ground level (DBH - 'diameter at breast height') are excluded from this measurement and do not require a felling licence. Further information can be obtained from the CLA's Forestry and Woodland Adviser.

**Environmental Impact Assessment** - If the planning authority considers it necessary that an Environmental Impact Assessment is required for a particular development then permitted development rights are withdrawn and a full planning application will be required.

Government guidance on environmental impact assessments can be found [here for agricultural development](#) and [here for forestry related development](#).

### **Protected species – Wildlife surveys**

Whilst wildlife surveys are not specifically mentioned in GPDO 2015, it should be assumed that a seasonal survey may be required in relation to protected species including bats, newts, owls, badgers etc. A seasonal survey may be requested in line with the requirements of Conservation of Habitats and Species Regulations 2017 ([SI 2017/1012](#)) as amended by the Conservation of Habitats and Species Regulations 2019 ([SI 2019/579](#)) if there is any suggestion that protected species would be disturbed. It is a criminal offence to disturb protected species such as bats, newts, owls, badgers etc.

In order to forestall a request from the planning authority for a seasonal wildlife survey, applicants may wish to ensure that relevant seasonal surveys are undertaken in advance of the development taking place, and submitted with the prior approval application if one is required, or can be made available to the planning authority if requested to do so in those cases where no prior notification is required.

### **Nutrient neutrality and Habitats Regulation Assessment**

As part of any development pre-planning exercise, including those related to the use of permitted development rights, developers must consider whether a proposed development is located close to or adjacent to a Special Area of Conservation, Special Protection Area and/or a Ramsar site. If it is considered the proposed development may be harmful to the protected nature conservation site, the developer may be required to undertake a Habitats Regulations Assessment. For further information, please refer to CLA Guidance Note entitled **Nutrient Neutrality: Impact on development** (GN35-21) which can be found [here](#).

### **Designated Areas – Article 2(4) land**

Throughout this Guidance Note reference is made to Article 2(4) land. The GPDO 2015 Schedule 1 Part 2 defines Article 2(4) land as being “*Land within the following areas:*”

- (a) a National Park.
- (b) the Broads; or
- (c) land outside the boundaries of a National Park which is within the parishes listed in sub-paragraph (2).....”

Where Article 2(4) land is mentioned in GPDO 2015 Part 6, this will usually mean that development will require the prior approval of the planning authority before any development takes place.

### **Planning conditions and withdrawing permitted development rights**

Permitted development rights can be made subject to conditions. Also permitted development rights can be withdrawn by a planning condition on a planning permission or by an article 4 Direction imposed by a planning authority.

### **Community Infrastructure Levy**

Members should be aware that the Community Infrastructure Levy (CIL) may be payable on a development, including development required for the purposes of agriculture or forestry. Members are strongly advised to check the planning authority website to find out (a) if a CIL charging

schedule is in force and (b) what types of development are liable for a CIL in order to factor the CIL charge into a business plan/financial appraisal. It is possible that agricultural and forestry development may be included in the “Any other development” category on the charging schedule unless it is having been specifically excluded from CIL.

### **Use of land for equestrian purposes**

The use of agricultural land and buildings for equestrian use does not come within the definition of agriculture and constitutes a material change of use that requires planning permission. Generally, if a horse is kept for recreational purposes and ridden or fed concentrate feed, the use is defined as equestrian and not agricultural so permitted development rights under Part 6 will not apply. If the recreational horse is grazing grass only, or the horses are kept to work the land then these activities are likely to be considered to comply with the definition of agriculture. It would be safe to assume that any equestrian use of agricultural land or buildings would require planning permission.

## **9. RIGHT OF APPEAL**

If the planning authority responds that a prior approval application is required and/or refused, and you disagree with this decision, or is granted subject to conditions with which you disagree, you have the right to appeal within 6 months of the decision date to the Secretary of State (Planning Inspectorate).

## **10. PROTECTED LANDSCAPES**

The content of this guidance note applies to agricultural and forestry land and buildings located in designated landscapes (National Parks, the Broads, Areas of Outstanding Natural Beauty, and World Heritage Sites).

Some authorities with responsibility for designated areas use conditions in planning permissions or Article 4 directions to restrict permitted development in particularly sensitive areas. It is always advisable to check that there are no restrictions before undertaking any works.

## **11. REGULATORY AMENDMENTS**

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2018 – [SI 2018/343](#) (the 2018 amending regulations) came into effect on 6 April 2018. A couple of amendments were made to Part 6:

- 1/ Parts A and B were amended to increase the size limit applicable to development on agricultural land, from 465sqm to 1000sqm, and
- 2/ Class B was amended to increase the cubic content of an extension or alteration of an agricultural building from 10% to up to 20%. See further details below.

**Members are asked to note.** This Guidance Note provides a summary of existing regulations concerning permitted development rights for agricultural buildings and operations. We strongly recommend that members take their own professional advice.

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