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New Permitted Development Rights for High Street Conversions Come into Force



Gemma Dudley
Senior Associate

Following a consultation in October last year, the Government has introduced the Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 ("the Regulations") which include new and amended permitted development rights aimed at supporting the regeneration of the high street.

The Regulations came into force on 25th May and amend the Town & Country Planning (General Permitted Development) (England) Order 2015 ("the GPDO") to allow the change of use of a building from A1 (shops), A2 (financial and professional services) or Class A5 (hot food takeaways), or from use as a betting office, pay day loan shop or laundrette, to Class B1(a) (offices) without the need for planning permission. The GPDO will also be amended to allow hot food takeaways to be changed to dwellinghouses. There is also an extension of the permitted development rights allowing temporary changes between various high street uses to include certain Class D1 uses (non-residential institutions), and to extend the period of time that a building can be in a temporary flexible use from 2 years to 3 years. These new and extended permitted development rights contain limitations and conditions on how they will operate.

These changes have been made despite criticisms – particularly from the Labour party - of existing permitted development rights enabling the conversion of commercial buildings to dwellings and their tendency to lead to poor quality housing and avoidance of affordable housing and other s106 obligations.

For more information contact Gemma Dudley on 01223 532747 or [click here](#) to email Gemma.

Registration of Town/Village Green Quashed



Bryan Guest
Associate

Recreational land can be protected from development by registering it as a town or village green (**TVG**) under the Commons Act 2006 (**Act**).

In a recent Court of Appeal case, a landowner sought to quash a council's decision to register a TVG in Royal Wootton Bassett, arguing that a trigger event had occurred. Under the Act, a trigger event prevents TVG registration. The adoption of a local development plan by a local authority, identifying land for *potential development*, is one such trigger event.

The land in this case was included in Wiltshire Council's local development plan as being within Royal Wotton Bassett's settlement boundary. However (and crucially) it was also identified as a site having potential for development.

The High Court had already ruled that "potential for development" was much wider than asking whether there was probability of development. Accordingly the Court of Appeal held that a trigger event had occurred and that the registration of the land as a TVG could be quashed.

This is a decision that will be welcomed by developers.

For further information please contact Bryan Guest on 01604 463146 or [click here](#) to email Bryan.

Why Golf Shelters Might be of Interest to Non-Golfers



In a recent case, the Planning Inspectorate considered whether a portable shelter for a practice tee at a golf club was a building for planning purposes. The shelter was 10 metres wide and 4 metres high, covered by a green polyethylene material and described as a 'lightweight structure', with an open front and a partially open rear with a mesh material which also formed part of the sides. The shelter was fitted with wheels allowing it to be taken away and moved to different locations, but was also tethered to the ground over an artificial golf tee surface. Ultimately, it was the presence of the tether that proved decisive for the inspector, who ruled that despite the shelter's portability, the fact that it had been tethered to the ground meant that it had a degree of permanency and could therefore be classed as a building for planning purposes.

Deborah Sharples
Partner

This case has significance which goes far beyond golf shelters and their status. The question of what is a building for planning purposes is a recurring one which can be of real importance, including to farmers who provide temporary shelters of various kinds for livestock and for other sporting facilities where temporary buildings are common. It is important to gain clear and expert advice on matters relating to planning permission and Hewitsons is here to help.

If you have any queries regarding planning please contact Deborah Sharples on 01223 532757 or [click here](#) to email Deborah.

Consultation by RICS on a Compulsory Home Survey Standard



Bradley Armorgie
Senior Solicitor

The Royal Institute of Chartered Surveyors (RICS) has recently published a consultation on imposing compulsory standards for residential home surveys called the "Home Survey Standard".

RICS wish to introduce a new professional statement that would replace and update previous RICS publications in this area. The purpose is to ensure that buyers and sellers understand the importance of undertaking a survey and that RICS members comply with a mandatory framework to ensure surveys produced are of a consistent high quality and easy to understand. The consultation closes on 29th July 2019 and incorporates both an industry questionnaire section and a public questionnaire section. To take part [click here](#).

For further information contact Bradley Armorgie on 01223 447415 or another member of our [residential property team](#).

The Importance of Drafting the Correct Guarantee into an AGA; a Warning for Landlords



A recent High Court ruling has illustrated the importance for Landlords to pay close attention to their wording when drafting authorised guarantee agreements ('AGA') to preserve their ability to enforce against a guarantor when the need arises, without falling foul of the 1995 Landlord and Tenant Covenants Act. The case (*Co-op Food Group v A.A.Shah Properties Ltd*) concerned a situation whereby both the outgoing tenant and guarantor went into administration. The ability to clearly identify and draft the obligations for an outgoing guarantor as a correct guarantee or sub guarantee can mean the difference between obtaining rent owed to a Landlord or not.

A key issue highlighted in the case was the significance of ensuring the guarantor only ever guarantees the outgoing tenant's performance of their obligations and not those of the assignee. In a situation where there is a transfer of the AGA obligations and incorrect drafting leads to an outgoing

Carolynn Davies
Senior Associate

guarantor guaranteeing the performance of covenants by the assignee, then it is deemed to be a direct guarantee and by virtue of the release provisions contained within the 1995 Act is unenforceable against the outgoing guarantor.

For further information please contact Carolynn Davies on 0207 831 8888 or [click here](#) to email Carolynn.

Correction on April's edition



In April's issue of Hewitsons' Real Estate Update under her photo we inadvertently promoted Sarah Baron from Solicitor to Partner. Sarah is a valued member of our Cambridge real estate team who trained with us and qualified in 2017. She is not (yet) a partner. We apologise for any confusion caused.



This Bulletin is produced by Hewitsons for clients and contacts of the firm to provide them with a useful summary of recent cases, journal reports, developments in the law and dates to be aware of. It is not a definitive statement of the law in any area.

Advice should be sought from a solicitor in the Real Estate Team at Hewitsons in respect of any information contained in this bulletin that affects any matter with which you may be concerned.

Hewitsons offers a full real estate service which includes expertise in property acquisition and disposal, planning, construction, environmental issues, development and property management. This Bulletin will help to keep those involved in property up to date with the latest developments.

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