UPWARD EXTENSIONS AND PERMITTED DEVELOPMENT – IT'S HAPPENED!

Posted on June 26, 2020

The idea of upward extensions to create new homes has been knocked around for some time, in August 2020 it will become the latest in Permitted Development rights ("PD"). PD rights to upward extensions were consulted upon in October 2018 by the then Housing Secretary, James Brokenshire. Brokenshire wasn't around long – however, he did promise that we would see such rights in the future. In March 2020, the Government issued the 'Planning for the Future' document which confirmed such rights would be available by summer 2020.

The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020, state that the right will come into effect on the 1st August 2020, right on cue.

Regulation 22 (view legislation) amends the Act adding Part 20 "Construction of New Dwelling houses" - New Dwelling houses on detached blocks of flats. Class A permits two additional storeys of new flats above an existing standalone purpose-built flatted building. It permits the associated works to complete the new residential units including reasonable engineering operations, plant, works for access and egress (including fire escape), works for storage & waste and other ancillary facilities.

There are of course limiting factors that means "Development not permitted". Some of the interesting ones include:

- The above ground level is less than 3 storeys – because 3 storeys can take more!
- The building was constructed before 1st July 1948, or after 5th March 2018. In other words the building has to have been constructed between July 1948 to March 2018.

- The floor to ceiling heights must not exceed 3 metres or more than the floor to ceiling heights of any of the existing storeys – proportions are important.
- Only flats.
- The extended building will not exceed 30 metres – so there is a limit.

Development is not permitted on article 2(3) land, a site of special scientific interest, a listed building or land within its curtilage, a scheduled monument or land within its curtilage, a safety hazard area, a military explosives storage area or land within 3 kilometres of the perimeter of an aerodrome.

By virtue of the definitions it also means that mixed-use buildings will not be subject to the permitted development rights. We expect further changes to accommodate a wider scope of building benefitting from the rights.

The conditions are where you may say the devil is in the detail lies. The developer is required for the authority to assess a series factors, this includes design, contamination, adequate light and impact on neighbours. Design has always been an overarching concern with permitted development, as well as quality of accommodation. These measures will mean that the authority will have a say on these matters which is a step forward. Indeed, it is noted that an assessment of internal light (i.e. a requirement for windows) has been introduced for other permitted development routes which regularly made it into the media (read article).

The legislation also details the required information to be submitted to the local authority and the requirements for consultation.

As well as upward extensions, the Government also promised rights to demolish commercial buildings to be replaced with residential dwellings. The details and legislation remain forthcoming.

Permitted development rights and the deregulation of the planning system is a controversial topic. Either way the current Government is very much for it. The office to residential is often wheeled out as creating slums and the figures in terms of residential output do not stack up as a valuable contributor to housing numbers. It does seem that the upward extension right de-risks the planning process albeit with additional assessment by the local authority. We question, without amendment, how many buildings will benefit from the right and therefore the value in the context of boosting housing delivery.

Speak with one of our experts.

If you are a property owner, investor or landowner, and you have an upward extension project you would like to discuss, contact one of our experts today by emailing us on info@planninginsight.co.uk or give us a call on 020 7993 4539.