

Permitted Development Rights Available to the Broads Authority
Report by Planning Assistant

Summary: This report provides Members with an overview of the permitted development rights available to the Broads Authority to undertake development without requiring express planning permission.

1 Background

- 1.1 Planning permission is required for any 'development'. 'Development' is defined as "the carrying out of building, engineering, mining or other operations in, on, over or under land" or "the making of a material change of use of any buildings or other land". The *Town and Country Planning (General Permitted Development) Order 1995* (and subsequent amendments) gives deemed consent for various developments subject to the circumstances and criteria set out in these regulations, known as permitted development rights.
- 1.2 These permitted development rights, set by the Secretary of State at national level, exist in order to allow statutory undertakers and various other bodies to undertake necessary work without first submitting a planning application and also to take minor, uncontentious developments (such as some boundary treatments and householder alterations and extensions) out of the planning system so resources can be concentrated on larger and more complex applications. These rights are conferred on "trusted" public authorities on the understanding that they will use their powers wisely in the best public interest and effectively lead by example.
- 1.3 The sensitivity of protected landscapes and heritage assets to some of these relatively minor developments is recognised in the regulations and the permitted development rights, particularly those available to householders, are slightly less permissive in the Broads than elsewhere. At a local level there are also particular discrete areas where specific classes of development have been removed by what are known as 'Article 4 directions'. Over 20 such directions exist in the Broads and these are currently under review.
- 1.4 Since 2011, the Coalition Government has made changes to the planning system to remove what are considered to be unnecessary regulatory burdens and to encourage business and create new homes. This has included the extension of existing permitted development rights and the introduction of new rights. The Broads is exempt from some of the more permissive new rights, such as extending dwellings by up to 8 metres and converting agricultural buildings to dwellings.

2 The Broads Authority

- 2.1 The regulations are divided into over 40 parts according to different types of development and developer. The Broads Authority benefits from permitted development rights in its role as a local authority (Part 12), as a statutory undertaker with regard to inland navigation (Part 17) and benefits from the rights generally available to individuals. The relevant extracts from the Order are set out in Appendix 1.
- 2.2 As you may see from Appendices, it is not feasible to give an exhaustive list of potential developments permitted by these rights. Much is dependent on the Authority's interest in the particular site and the purpose of the development. As an example, under Part 12, as a local authority, the Broads Authority must either own or maintain the land concerned and the development must be required for a function exercised by the Authority (but not a function as an inland navigation statutory undertaker) to be able to, for example, erect a small building. Should these circumstances apply, a development such as a small building is subject to size and volume restrictions. Part 12 also gives rights to provide various small scale structures and works on land which is not owned or maintained by the Authority but where the development is required in connection with a public service administered by the Authority.
- 2.3 Part 17 Class B applies where the Authority is undertaking development in its capacity as an inland navigation statutory undertaker and must be on 'operational' land. Class B applies when development is required in connection with a range of activities, the key one of which likely to apply to the Authority is 'the movement of traffic by inland navigation'. In addition, the Broads Authority is a Harbour Authority and a Lighthouse Authority some rights may accrue as a consequence under Classes B and I. Such development is subject to further clauses and criteria. Part 17 Class D allows for the spreading of dredged material on land, although it should be noted that this only allows for *spreading*, and not storage or use of dredged material for other purposes.
- 2.4 There are also classes which are generally available to individuals that the Authority can benefit from, such as erecting boundary treatments up to certain heights and temporary buildings and uses.
- 2.5 The provision of these permitted development rights enables the Authority to undertake certain works without applying for planning permission which has certain advantages. There is no flexibility in the application of the permitted development rights; if the proposed development does not comply with the regulations, planning permission must be sought. The rights are also complex to apply with much depending on the specific site and intention of the development. The Development Management team consider each proposal on its merits, assessing it against the regulations, often with reference to case law for confirmation of the correct interpretation in each particular case.

- 2.6 When utilising the permitted development rights, a development is not subject to the rigours of the planning application process. The Authority as a “trusted” authority is expected to apply the same principles, having regard to considerations of design, landscape, ecology, navigation, amenity, heritage assets, *etc.* in the design and completion of the project. The Authority should also be mindful that businesses, householders and other bodies will not necessarily benefit from the same rights and may find themselves applying for planning permission for a similar development to that which the Authority has undertaken without such consent. Members will also be aware that the planning application process includes thorough local and statutory consultations.
- 2.7 Where planning permission is not required, the *Conservation of Habitats and Species Regulations 2010 (as amended)* still apply and it may be necessary for notification to be given to Natural England and to the Authority as local planning authority. If the development is of a scale that would mean a planning application for such development would require Environmental Impact Assessment in accordance with the *Town and Country Planning (Environmental Impact Assessment) Regulations 2011*, it does not benefit from permitted development rights and a planning application with an Environmental Statement would be required.

3 Conclusions

- 3.1 Permitted development rights are available to the Authority and can facilitate work and improvements to the navigation of the Broads. These rights apply in specific circumstances and only for certain projects. Unfortunately there are no simple rules and close working between members of staff leading on projects and our planning staff is essential so that a judgement is made in each case to ensure that the Authority to abuse its status as a trusted public authority. Projects which do not benefit from the permitted development rights as set out in the regulations require an application for planning permission to be submitted and determined.

Background papers: None

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Broads Plan Objectives: None

Appendices: Extracts from General Permitted Development Order Regulations 1995

APPENDIX 1 : Extracts from The *Town and Country Planning (General Permitted Development) Order 1995*

Part 12 - DEVELOPMENT BY LOCAL AUTHORITIES

Class A

A. Permitted development

The erection or construction and the maintenance, improvement or other alteration by a local authority or by an urban development corporation of—

(a) any small ancillary building, works or equipment on land belonging to or maintained by them required for the purposes of any function exercised by them on that land otherwise than as statutory undertakers;

(b) lamp standards, information kiosks, passenger shelters, public shelters and seats, telephone boxes, fire alarms, public drinking fountains, horse troughs, refuse bins or baskets, barriers for the control of people waiting to enter public service vehicles, and similar structures or works required in connection with the operation of any public service administered by them.

A.1 Interpretation of Class A

For the purposes of Class A—

- “urban development corporation” has the same meaning as in Part XVI of the Local Government, Planning and Land Act 1980(4) (urban development).

A.2 The reference in Class A to any small ancillary building, works or equipment is a reference to any ancillary building, works or equipment not exceeding 4 metres in height or 200 cubic metres in capacity.

PART 17 - DEVELOPMENT BY STATUTORY UNDERTAKERS

Class B Dock, pier, harbour, water transport, canal or inland navigation undertakings

B. Permitted development

Development on operational land by statutory undertakers or their lessees in respect of dock, pier, harbour, water transport, or canal or inland navigation undertakings, required—

(a) for the purposes of shipping, or

(b) in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a dock, pier or harbour, or with the movement of traffic by canal or inland navigation or by any railway forming part of the undertaking.

B.1 Development not permitted

Development is not permitted by Class B if it consists of or includes—

(a) the construction or erection of a hotel, or of a bridge or other building not required in connection with the handling of traffic,

(b)the construction or erection otherwise than wholly within the limits of a dock, pier or harbour of—

(i)an educational building, or

(ii)a car park, shop, restaurant, garage, petrol filling station or other building provided under transport legislation.

B.2 Interpretation of Class B

For the purposes of Class B, references to the construction or erection of any building or structure include references to the reconstruction or alteration of a building or structure where its design or external appearance would be materially affected, and the reference to operational land includes land designated by an order made under section 14 or 16 of the Harbours Act 1964(7) (orders for securing harbour efficiency etc., and orders conferring powers for improvement, construction etc. of harbours), and which has come into force, whether or not the order was subject to the provisions of the Statutory Orders (Special Procedure) Act 1945(8).

Class D Dredgings

D. Permitted development

The use of any land by statutory undertakers in respect of dock, pier, harbour, water transport, canal or inland navigation undertakings for the spreading of any dredged material.

Class I Lighthouse undertakings

I. Permitted development

Development required for the purposes of the functions of a general or local lighthouse authority under the Merchant Shipping Act 1894(17) and any other statutory provision made with respect to a local lighthouse authority, or in the exercise by a local lighthouse authority of rights, powers or duties acquired by usage prior to the 1894 Act.

I.1 Development not permitted

Development is not permitted by Class I if it consists of or includes the erection of offices, or the reconstruction or alteration of offices where their design or external appearance would be materially affected.