



A FARMER'S GUIDE

AGRICULTURAL PERMITTED
DEVELOPMENT RIGHTS IN THE
SOUTH DOWNS NATIONAL PARK
VERSION 2



VERSION 2

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FOREWORD

1.1 As a barrister practising in planning, environmental and regulatory law I have known and worked with Bourne Rural Planning Consultancy Limited and Jill Scrivener on many projects over the past years, covering a broad range of issues arising for clients in both agricultural and equestrian developments.

1.2 The provisions of the *Town and Country Planning (General Permitted Development) (England) Order 2015* (as amended) ('the GPDO') are in many places detailed, often technical and sometimes challenging in terms of readers being able to discern what is (or is not) permitted, and when. In many instances the steps required by the GPDO are absolute; often they are time-critical, and non-compliance can render landowners and occupiers susceptible to enforcement action.

1.3 This booklet is an excellent guide to the ever-changing requirements, limitations and interpretations of the GPDO. Bringing Jill's expertise, experience and critical analysis to bear on agricultural permitted development, it is written in a clear way and in an easy-to-follow format. It will provide readers with an easier and better understanding of the GPDO's key requirements and procedures before undertaking any proposed agricultural development. It also serves to help readers better understand where the potential pitfalls and difficulties might be for development proposals.

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INTRODUCTION

1.4 This Guide has been produced by Bourne Rural Planning Consultancy Limited (BRPC) and commissioned by the South Downs National Park Authority (SDNPA). Its aim is to support farmers/landowners by providing them with detailed information on permitted development (PD) rights as set out in the *Town and Country Planning (General Permitted Development) (England) Order 2015 (Amended)* (referred to as the GPDO). Permitted development rights relate to certain types of work that can be carried out without the need to apply for planning permission.

1.5 Not every aspect of PD rights can be covered in this Guide as there are simply too many variants and issues which need to be considered. However, it should provide readers with a better understanding of key requirements and procedures and a practical guide to the main points for consideration.

THE SOUTH DOWNS NATIONAL PARK

1.6 The South Downs National Park offers a landscape as diverse as it is breathtaking. On the one hand it has green rolling pastures, wide open spaces, ancient woodlands, river valleys and dramatic coastline – embodying the National Park’s ethos of being one of ‘Britain’s Breathing Spaces’. At the same time, it offers bustling towns and traditional villages steeped in history, with iconic museums offering a multitude of cultural opportunities.

1.7 Agriculture is pivotal to the continuation of any thriving National Park and the SDNPA are committed to supporting the rural community by ensuring that existing enterprises prosper whilst providing opportunities for newcomers to bring fresh ideas and opportunities to those living and working in the National Park. The long-term sustainability of rural enterprises is crucial for the continuance of this working, thriving National Park. The ability for

farmers and land owners to develop agricultural activities through permitted development rights is seen as central to this need.

THE SOUTH DOWNS NATIONAL PARK AUTHORITY

1.8 *The South Downs National Park Authority* is the statutory planning authority for the National Park area, controlling and overseeing the development of land and buildings within its boundaries and ensuring that the local economy is supported and green spaces are valued and cared for.

1.9 To do this effectively the SDNPA have to simultaneously safeguard the natural environment and existing built heritage, whilst supporting the rural communities and local businesses.

1.10 The SDNPA are responsible for planning across the entire National Park and have unique partnerships with local authorities operating within the National Park boundaries. In some areas the SDNPA are responsible for dealing directly with various planning applications and prior notification applications, whilst in others the relevant local authority has retained responsibility for assessing these applications on behalf of the SDNPA (for full details relevant contacts, please see **Section 9**).

1. HOW TO USE THIS GUIDE

1.1 The *General Permitted Development Order* (referred to throughout as the GPDO) is detailed and complex and this Guide is focused on providing some answers to the questions that farmers often have, interpretation of various terms used in the GPDO and various restrictions and limitations. To help you navigate the document we have colour coded specific sections of the Order as follows:

YELLOW BOX

INTERPRETATION (DEFINITIONS) AS SET OUT AT D.1 TO PART 6 OF SCHEDULE 2 OF THE GPDO – DISPLAYED IN A YELLOW BOX

GREEN BOX

CLASS A REQUIREMENTS FOR AGRICULTURAL HOLDINGS OF MORE THAN 5HA DIRECT QUOTES TAKEN FROM THE GPDO

ORANGE BOX

CLASS B REQUIREMENTS FOR AGRICULTURAL HOLDINGS OF LESS THAN 5HA DIRECT QUOTES TAKEN FROM THE GPDO

DARK BLUE BOX

TOP TIPS – IMPORTANT THINGS TO REMEMBER AND USEFUL TIPS TO HELP YOU UNDERSTAND THE PERMITTED DEVELOPMENT RIGHTS

LIGHT BLUE BOX

WORKING INTERPRETATION OF THE GPDO

2. SUMMARY OF 'TOP TIPS'

2.1 The 'TOP TIPS' provided throughout this Guide highlight various important matters to consider in relation to permitted development. The issues covered are:

TIP 1 – Page 6	Use of land for equestrian purposes	TIP 13 – Page 19	Importation of waste for creation of hardstanding
TIP 2 – Page 7	How to measure the area of your land	TIP 14 – Page 19	Livestock buildings
TIP 3 – Page 9	What is an “agricultural trade or business”?	TIP 15 – Page 19	Use of a storage building permitted under PD for livestock housing
TIP 4 – Page 9	Development not permitted under Class A	TIP 16 – Page 20	Permitted Development Rights Withdrawn?
TIP 5 – Page 10	What is a “protected building”?	TIP 17 – Page 20	Can you demolish a building as part of the proposals?
TIP 6 – Page 11	The area of development	TIP 18 – Page 21	A need to notify the authority when development is complete
TIP 7 – Page 12	Development proposals which do not require you to go through the Prior Notification process – Class A	TIP 19 – Page 21	Agricultural use of building/extension ceases within 10 years of completion
TIP 8 – Page 13	Is there scope to erect a building under Class B?	TIP 20 – Page 22	No work should begin before the prior notification application is made
TIP 9 – Page 13	Extending an existing livestock building under Class B	TIP 21 – Page 22	The Starting Point – key points to consider
TIP 10 – Page 15	Some important differences – allowed under Class A but not under Class B	TIP 22 – Page 23	Documents to submit as part of the Prior Notification Application
TIP 11 – Page 18	Development within 25m of a classified road – road classifications	TIP 23 – Page 23	The 28-day timeframe for response
TIP 12 – Page 18	Creation of farm tracks	TIP 24 – Page 24	Listed buildings and curtilage listed buildings

3. THE GENERAL PERMITTED DEVELOPMENT ORDER (GPDO) 2015

3.1 Part 6 to Schedule 2 of the GPDO¹ covers agricultural and forestry permitted development rights. This Guide concentrates only on agricultural permitted development rights.

3.2 Some proposals are considered to be 'permitted development' and there is no requirement to secure planning permission from the local authority – see **TIP 7**, p.16². However, in most cases, you will need to submit a 'prior notification' application to the local authority. This should contain sufficient information for them to reach a decision as to whether the proposal meets the criteria of the relevant section of the GPDO and whether prior approval is required.

3.3 **The starting point for any permitted development under Part 6 is that the land must already be in use for agricultural purposes.**

THE DEFINITION OF AGRICULTURE

3.4 Section 336 of the Town and Country Planning Act 1990 provides the definition of agriculture:

"includes horticulture, fruit growing, seed growing, dairy farming, the keeping and breeding of livestock (including any creature kept for the production of food, wool, skins, fur, or for the purpose of the farming of the land), the use of land as grazing land, meadowland, 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"

It must be remembered that, in order for any proposals to benefit from PD rights, the proposals must be proposed and **works must not have started** (see **TIP 19**, page 22).

TIP 1 – USE OF LAND FOR EQUESTRIAN PURPOSES

Remember: the use of agricultural land and buildings for equestrian use is a material change of use and planning permission is required. There is scope to keep horses for agricultural purposes (where the horses work the land or are grazed without supplementary feeds, for example). However, generally, if a horse is ridden, rugged, fed concentrate feed etc., the use would be defined as equestrian and not agricultural so permitted development rights would not apply in this case.

It is always sensible to assume that any equestrian use of agricultural land or buildings would require planning permission. For further clarification, the relevant local authority should be able to provide you with guidance on this.

SIZE OF THE FARM

3.5 Before you can establish whether your proposals benefit from permitted development rights, you need to make sure that you are satisfied that, at the

1 The Order is available in full at www.legislation.gov.uk

2 It is noted that the interpretation of Class A and B of Part 6 is provided at paragraph D.1 of the Order and is referred to throughout this guidance

very least, your land is in agricultural use. If it is not, then you cannot benefit from the PD rights provided at Part 6 of the GPDO.

3.6 If you are satisfied that your land is in agricultural use, you must then consider the size of the agricultural unit (an “*agricultural unit*” – as detailed in the GPDO – is agricultural land which is occupied as a unit for the purposes of agriculture). An agricultural unit can be formed of various parcels of land farmed by you and does not have to relate only to the parcel of land on which you intend to carry out works. There are, however, restrictions on the minimum size of the parcel of land on which the proposed development would be sited, as detailed below.

TIP 2 – HOW TO MEASURE THE AREA OF YOUR LAND

If you are unsure of the exact size of your land holding – you can measure this easily using the mapping service provided at www.magic.gov.uk

SO, THE FIRST QUESTION TO ASK IS, IS YOUR EXISTING LAND AN:

Agricultural Unit of 5 hectares or more
Class A permitted development rights
(see Section 4, page 10)

OR

Agricultural Unit of 5 hectares or less (but greater than 0.4ha)
Class B permitted development rights
(see Section 5, page 5)

3.7 If your land area is less than 0.4ha then you do not benefit from Part 6 Agricultural Permitted development rights and you would need to submit a full planning application for any structure or works which is not permitted under Parts 2 (minor operations), 3 (changes of use) and 4 (temporary buildings and uses) of Schedule 2 to the GPDO.



4. CLASS A (AGRICULTURAL UNITS OF 5 HECTARES OR MORE)

4.1 This Section provides information relating to the basic requirements, restrictions, limitations and conditions associated with permitted development rights on units of 5 hectares or more and also details the requirements of the Prior Notification procedure. It is essential to read this whole section to ensure complete understanding of all requirements.

DEVELOPMENT IS PERMITTED FOR:

A. The carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of:

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

4.2 It is important that the full meaning of these basic criteria as set out above are understood. Interpretations (definitions) are provided in the GPDO and they are an extremely important part of the consideration to ensure you can benefit from the PD rights.

4.3 Below is an interpretation of the words underlined above to help you to understand the basic requirements necessary to benefit from PD rights.

Agricultural land

Means land which, before development permitted by Part 6 is carried out, is 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 as a unit 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.

Reasonably Necessary

"Reasonably necessary for the purposes of agriculture" 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 or system; or for housing a hydro-turbine.

REASONABLY NECESSARY

4.4 The test of reasonably necessary is a core test in the GPDO. This dictates that you must ensure that the proposed development is needed to support the agricultural activity in operation and is well-related to both the scale and nature of that activity and to the area of land available. You must be able to justify the size and design of the building against the scale and nature of activity in operation.

TIP 3 – WHAT IS AN “AGRICULTURAL TRADE OR BUSINESS”?

The definition of *Agricultural Land* is provided above but PLEASE NOTE **there must be an existing agricultural trade or business** in operation on the land in order for the farmer/landowner to benefit from permitted development rights.

However, **there is no requirement for that trade or business to be profitable or of a certain scale**. It simply means that the land must be generating produce which is sold on – hay production and sheep grazing, for example, would both be acceptable.

RESTRICTIONS AND LIMITATIONS

4.5 The GPDO then sets out various restrictions which limit PD rights in certain circumstances. It is important to remember that all of the criteria must be met if you are to benefit from the PD rights.

4.6 You must also take note of the exclusions detailed as ‘*not permitted*’, below.

TIP 4 – DEVELOPMENT NOT PERMITTED UNDER CLASS A

If **any** of the criteria detailed at **A.1** above **are true**, then the development **cannot** benefit from permitted development under Part 6 and you will need to submit a full planning application to your Local Authority.

DEVELOPMENT NOT PERMITTED

A.1 Development is not permitted by Class A if any of the following apply.

- the site is a separate parcel of land of less than 1 hectare;
- it would consist of the erection or extension of any agricultural building on an established agricultural unit where a change of use of agricultural buildings has been carried out under Class Q (change of use of agricultural building to dwelling house) or Class S (change of use of agricultural building to state-funded school or registered nursery) to Part 3 of Schedule 2 of the GPDO, within the previous ten years; (although there are currently no permitted development rights for change of use under Class Q on Article 2(3) land (inc National Parks));
- works would include the erection, extension or alteration of a dwelling;
- any works would not be designed for agricultural purposes;
- the ground area covered by any works or structure for accommodating livestock or any building erected or extended, by virtue of Class A, would exceed 1,000m² (calculation details provided at TIP 6, p.16);
- the height of any building or structure within 3km of the perimeter of an aerodrome would exceed 3m;
- the height of any building, structure or works would exceed 12m;
- any part of the development would be within 25m of the hardened part of a trunk or classified road;
- it would include any works to, or the erection or construction of, a building, structure or excavation to be used for the accommodation of livestock (which includes fish and shellfish), or storage of slurry or sewage sludge, which is within 400m of the curtilage of a “protected building” (see TIP 5, p.13);
- any proposed excavations or engineering operations relating to fish farming are on land within the National Park; or

- any building which would be used for storing fuel for, or waste from, a biomass boiler or anaerobic digestion system:
 - would be used for storing waste not produced on land within the unit; or
 - is or would be within 400m of the garden of a “protected building” (see TIP 5, p.10).

TIP 5 – WHAT IS A “PROTECTED BUILDING”?

Most non-agricultural buildings and dwelling houses are considered to be protected building but houses occupied by farm workers are not.

CLASS A CONDITIONS

4.7 If it is established that development meets the PD criteria set out at **Class A and A.1** above, A.2 of Part 6 outlines the various conditions you must consider to ensure that you operate within the constraints of the permitted developments rights. This includes the Prior Notification process which dictates that, before beginning any works, you must apply to the local planning authority for a determination as to whether their prior approval is required.

A.2 (1) Development is permitted by Class A subject to the following conditions—

- If development is within 400m of a “protected building”, it cannot be used for:
 - the accommodation of livestock, except for a temporary use for emergency livestock housing (as long as no other buildings are available); or
 - the storage of slurry or sewage sludge, for housing a biomass boiler or an anaerobic digestion system, for storage of fuel or waste from that boiler system or for housing a hydro turbine;
- Any mineral extracted must not be moved off the unit;
- Waste materials cannot be imported from off-site except for works for the erection, extension or alteration of a building or for the creation of a hard surface. Any materials imported must be used promptly and not be stored on the land.

4.8 Class A.2 (2) states that development consisting of:

- (a) the erection, extension or alteration of a building;
- (b) the formation or alteration of a private way;
- (c) the carrying out of excavations or the deposit of waste material (where the relevant area, as defined in paragraph D.1 (4) of this Part, exceeds 0.5 hectares); or
- (d) the placing or assembly of a tank in any waters

is considered to be permitted by Class A as long as various conditions and limitations are met.

4.9 The following section provides a summary of those conditions.

TIP 6 – THE AREA OF DEVELOPMENT

Remember: the proposed development must not extend beyond 1,000m² – this area must include the ground area of any other development in the same unit which are being proposed, or have been provided within the preceding two years, and any part of which would be within 90m of the proposed development.

Before beginning any works as detailed above (Class A.2 (2)), you must apply to the local planning authority for a determination as to whether their prior approval is required. To establish this, you will need to submit a *Prior Notification* application – the procedure for which is set out at **Section 8** of this Guide.

The local authority will consider the siting, design and external appearance of the building, the siting and means of construction of the private way, the siting of the excavation or deposit or the siting and appearance of the tank, as the case may be. The local authority will also consider whether the proposals benefit from PD rights and whether all other aspects of Part 6 are met.

You must make sure that you submit a written description of the proposed development, of the materials to be used and a plan indicating the site, together with any necessary fee.

You must also make sure that you **do not begin** any works before:

- you receive a written notice from the local authority that prior approval **is not** required, which will mean that all criteria is met and you may proceed with the works; **or**
- the local authority advise that prior approval is required, but reach a decision and give their approval (the process for this is set out below); **or**
- the expiry of 28 days from the date on which the application was received by the local authority without them making a decision.

If the local planning authority advises you that prior approval is required, you must:

- display a site notice for 21 days within 28 days from when you were notified of the requirement by the local authority. That site notice must be displayed on or near the land on which the proposed development is to be carried out; and
- if the site notice is removed, obscured or defaced (as long as you were not responsible for this and did your best to ensure the notice remained in situ) before the period of 21 days has elapsed, it will be considered that you have complied with the requirements;

The development must be carried out in accordance with the information accepted by the local planning authority and on which their decision was made;

The development must be carried out within 5 years from:

- the date prior approval was given; or
- the date on which you submitted the information to the planning authority if prior approval was not required or no response was given by the local authority.

TIP 7 – CLASS A: DEVELOPMENT PROPOSALS WHICH DO NOT REQUIRE YOU TO GO THROUGH THE PRIOR NOTIFICATION PROCESS

Extensions and alterations to an existing building

Land outside the National Park: there is scope to extend or alter an existing building without going through the prior notification process, as long as the changes are not **significant** (*changes are seen to be 'significant' if the works involved increase the volume of the existing building (using external measurements) by more than 10% or the height of the building is increased at all*). If the proposed changes are not "significant" then you can proceed with the works without consultation. However, it would be sensible to ensure that records are kept (including photographs) of the original building so that, if questions are asked, you are able to demonstrate that the works were permitted development for which there was no requirement to go through the prior notification process.

It is important to note that if the works are "significant", an existing building can only be extended or altered once under permitted development rights. Any further extensions or alterations would require full planning permission.

IMPORTANT: There is no scope to undertake extensions or alterations to an existing building if the existing building is within the National Park

The carrying out of excavations or deposit of waste material (creation of a hardstanding area is included) where the area does not exceed 0.5 hectares

If you propose to create a hardstanding area which covers less than 0.5ha, then you do not need to go through the prior notification process and works can commence. However, it is recommended that you always approach the SDNPA for advice before commencing the importation of waste.

The above is based on the fact that the requirements of Class A and A.1 are met and the proposals can be considered to be 'permitted development'

Remember: Within 7 days of the date on which the development is substantially completed, the developer must notify the local planning authority in writing of that fact.



5. CLASS B (AGRICULTURAL UNITS OF LESS THAN 5 HECTARES)

5.1 This Section provides information relating to the basic requirements, restrictions, limitations and conditions associated with permitted development rights on units of less than 5 hectares and also details the requirements of the Prior Notification procedure. It is essential to read this whole section to ensure complete understanding of all requirements.

DEVELOPMENT IS PERMITTED FOR:

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

TIP 8 – IS THERE SCOPE TO ERECT A BUILDING UNDER CLASS B?

Please note: there is no scope to erect a new agricultural building under Class B **unless** it is within the curtilage of another building

and

where 2 or more original buildings are within the same curtilage and in the same use, they are to be treated as a single original building when measuring relevant floor areas.

If in doubt ask the local authority

TIP 9 – EXTENDING AN EXISTING LIVESTOCK BUILDING UNDER CLASS B

It is important to note that: if you have previously secured full planning permission for a livestock building within 400m of a protected building and then subsequently secure permission under Class B for an extension or alteration of that building, you effectively lose the original permission which supported the use of the building for the housing of livestock. The building (which includes the original building and any extensions permitted under Class B) would then no longer have a permitted use for the housing of livestock (except for emergency housing only).

RESTRICTIONS AND LIMITATIONS

5.2 The GPDO then sets out various restrictions which limit PD rights in certain circumstances. It is important to remember that all of the criteria must be met if you are to benefit from the PD rights.

5.3 You must also take note of the exclusions detailed as 'not permitted', below.

Development not permitted

B.1 Development is not permitted by Class B if any of the following apply:

- The development would be carried out on a separate parcel of land, on the holding, of less than 0.4 hectare;
- The external appearance would be affected in a significant way;
- Any part of the development would be within 25m of the hardened part of a trunk or classified road;
- It would include any works to a building or structure to be used for the accommodation of livestock (which includes fish and shellfish) or storage of slurry or sewage sludge, within 400m of the curtilage of a "protected building" (see interpretation at **TIP 5**, p. 13);
- It would relate to fish farming and would involve:
 - the provision of a tank on land or in any waters; or
 - the construction of a pond; or
 - the increase in size of any existing tank or pond;

in which fish may be kept; or

- Any building for storing fuel for, or waste from, a biomass boiler or an anaerobic digestion system which would be used for storing waste or fuel not produced on land within the unit.

B.2 Development is not permitted for the extension or alteration of an existing agricultural building if:

- The height of any building would be increased;
- The volume of the original building would be increased by more than 20%;
- Any part of any new building would be more than 30m from the original building;
- A change of use of agricultural buildings has been carried out on the agricultural unit under Class Q (change of use of agricultural building to dwelling house) or Class S (change of use of agricultural building to state-funded school or registered nursery) within the previous ten years; (although there are currently no permitted development rights for change of use under Class Q on Article 2(3) land (including National Parks))
- the development would involve the extension, alteration or provision of a dwelling;
- any part of the development would be carried out within 5m of any boundary of the unit; or
- the ground area of any building extended by virtue of Class B(a) would exceed 1,000m².

B.3 Development is not permitted for the installation of additional or replacement plant or machinery if:

- the height of any additional plant or machinery within 3km of the perimeter of an aerodrome would exceed 3m;
- the height of any additional plant or machinery not within 3km of the perimeter of an aerodrome would exceed 12m;
- the height of any replacement plant or machinery would exceed that of the plant or machinery being replaced; or

- the proposed development extends beyond 1,000m² – this maximum area must include the ground area of any other development in the same unit which are/have been provided within the preceding two years and any part of which would be within 90m of the proposed development.

B.4 Development is not permitted for the provision of a hard surface (e.g. a hardstanding area) if:

- the proposed development extends beyond 1,000m² – this maximum area must include the ground area of any other development in the same unit which are/have been provided within the preceding two years and any part of which would be within 90m of the proposed development.

TIP 10 – SOME IMPORTANT DIFFERENCES – ALLOWED UNDER CLASS A BUT NOT UNDER CLASS B, INCLUDING:

Any extensions and alterations to existing buildings **cannot** (under Class B):

- increase the **height** of the existing building; or
- increase the **volume** of the existing building by more than 20%;
- extend the overall **building size** beyond 1,000m² and
- any proposed **hardstanding area** must be included within the 1,000m² calculation.

The development cannot be carried out **within 5m** of any boundary on the agricultural unit.

CLASS B CONDITIONS

5.4 If it is established that development meets the PD criteria set out at **Class B** above, B.5 details the various conditions you must consider to ensure you operate within the constraints of the permitted developments rights. The conditions are:

B.5 (1) If the proposed development is within 400m of a ‘protected building’, it cannot be used for:

- the accommodation of livestock except for a temporary use for emergency livestock housing; or
- the storage of slurry or sewage sludge, for housing a biomass boiler or an anaerobic digestion system, for storage of fuel or waste from that boiler system or for housing a hydro turbine;

B.5 – (2) Any development to be undertaken consisting of the extension or alteration of a building situated on article 2(4) land (which includes land within National Parks) or the provision, rearrangement or replacement of a private way on such land is permitted subject to:

- before beginning the works, you must apply to the local planning authority for a determination as to whether the prior approval of the authority is required (submit a Prior Notification application) – the procedure for this is set out on page 24 of this Guide.
- the local planning authority will consider the siting, design and external appearance of the building as extended or altered, or the siting and means of construction of the private way;
- you must make sure that you submit a written description of the proposed development and of the materials to be used and a plan indicating the site together with any fee required to be paid; and
- the development must be carried out within 5 years from:
 - the date prior approval was given; or
 - the date on which you submitted the information to the planning authority.

B.5 (3) waste materials must not be brought on to the land from elsewhere for deposit unless they are for use in works for:

- the extension or alteration of an agricultural building;
- the provision, rearrangement or replacement of a private way; or
- the provision of a hard surface;
- and the waste materials are incorporated forthwith into the building or works in question; and
- that the height of the surface of the land will not be materially increased by the deposit.



6. PRACTICAL INTERPRETATION OF THE GPDO

SOME EXAMPLES OF WHEN FULL PLANNING PERMISSION WILL BE REQUIRED

- Development not **reasonably necessary** solely for the purposes of agriculture on the holding;
- Development on land which is not currently used in connection with an **agricultural business**, for example, hobby farming;
- Development **not designed** for the purposes of agriculture, for example, railway carriages or lorry containers;
- Development on an agricultural holding of **less than 0.4ha**;
- Development **within 25m** of the hardened part of a trunk or classified road;
- Development on separate parcels of land of less than;
 - 1 hectare on units of 5 hectares or more; or
 - 0.4 hectares on units of less than 5 hectares
- Agricultural buildings of **more than 1,000m² floor area** (calculated to include all other development within 90 metres of the site which has been carried out within the preceding 2 years);
- Buildings or excavations for livestock or slurry storage within 400m of a protected building (most non-agricultural buildings);
- Agricultural development more than **12m** in height;
- Excavations or engineering operations connected with fish farming.

ACCESS, TRACKS AND HARDSTANDING

ACCESS TO HIGHWAY

6.1 If you are considering the provision of new development on farmland, you will often need to create a new means of access.

6.2 There is scope to provide a new means of access under permitted development rights, provided it is required in relation to (of relevance here) agricultural development permitted under Part 6.

6.3 In relation to the creation of a new access, **Class B of Part 2 to Schedule 2** of the GPDO states:

Permitted Development

Minor operations permitted under the GPDO are set out at Part 2. Class B to Part 2 states that *“the formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in this Schedule”* is permitted development and there is no requirement to go through the prior notification process.

INTERNAL ACCESS TRACKS

6.4 Whilst agricultural machinery can travel across land without the need for a track, if journeys are frequent and take place throughout the year, this can cause damage to the land and create management issues for the farming business.

6.5 In such cases, it is often necessary to consider creating a track to provide vehicular access to ensure ease of management and support the good condition of the land.

TIP 11 – DEVELOPMENT WITHIN 25M OF A CLASSIFIED ROAD – ROAD CLASSIFICATIONS

Remember: If the road is the hardened part of a trunk or classified road, you will need to submit a full planning application to the local authority for any new access required and for the first 25m of track from the highway, as this development cannot benefit from permitted development rights.

The road classifications as defined by the Department of Transport are:

- **A roads** – major roads intended to provide large-scale transport links within or between areas
- **B roads** – roads intended to connect different areas, and to feed traffic between A roads and smaller roads on the network
- **Classified unnumbered** – smaller roads intended to connect together unclassified roads with A and B roads, and often linking a housing estate or a village to the rest of the network. Similar to 'minor roads' on an Ordnance Survey map and sometimes known unofficially as C roads
- **Unclassified** – local roads intended for local traffic (i.e. any adopted road which is not an A, B or C class road). The vast majority (60%) of roads in the UK fall within this category

It is recommended that you speak with your local Highways department in order to be certain if a road is classified

TIP 12 – CREATION OF FARM TRACKS

Access tracks can be provided on farmland using Class A.2 (2) (c) which provides for the formation of a private way (if reasonably necessary for the purposes of agriculture). However, if the proposed track includes a new vehicular access from the highway, that road must be unclassified – as the GPDO restricts development within 25m of a classified road.

When handling prior notification applications for the creation of farm tracks, the Local Planning Authority will consider whether prior approval is required for the siting and means of construction of the private way.

HARDSTANDING

6.6 A related question which also needs to be considered is whether there is scope under permitted development rights to include an area of hardstanding on the land, for example to provide for ease of access in front of a proposed agricultural building.

6.7 You must make sure that any area of hardstanding is reasonably required for agriculture on the unit and should be no larger than reasonably necessary to meet the identified need, and that all other requirements of Class A are met.

TIP 13 – IMPORTATION OF WASTE FOR CREATION OF HARDSTANDING

There is scope within Part 6 of the GPDO for the importation of waste (as set out in the Waste Framework Directive 2008/98/EC) onto farms where it is reasonably necessary for the purposes of agriculture to provide for the erection (Class A only), extension or alteration of a building **or in the provision of a hard surface area.**

However, the importation of waste is a complex area that requires careful assessment as to whether it is genuinely related to an agricultural activity, and whether it may be regarded as a waste disposal operation. It is recommended that you always approach the SDNPA Minerals & Waste Team for advice before commencing the importation of waste.

**LIVESTOCK BUILDINGS**

6.8 Some top tips for when considering whether your proposals for a livestock building can be considered as permitted development:

TIP 14 – LIVESTOCK BUILDINGS

The Order states that if proposals include, amongst other things, the erection of a livestock building, you must consider:

- Would the building be sited within 400m from a “*protected building*” (most non-agricultural buildings)?
- The 400m should be measured in a straight line along the ground and should be measured from the proposed livestock building to the boundary of the curtilage of the protected building.
- If the answer is “YES” then the development cannot benefit from PD rights.
- If the answer is “NO” then you can proceed with the prior notification application.

TIP 15 – USE OF A STORAGE BUILDING PERMITTED UNDER PD FOR LIVESTOCK HOUSING

Whilst livestock buildings cannot be sited within 400m of a dwelling under permitted development rights, there is scope for any building constructed under PD to be used (if there are no other buildings available which are more than 400m from a dwelling) for emergency livestock housing or, in the case of animals normally kept out of doors, temporary housing if they are sick, giving birth or newly born, or to provide shelter against extreme weather conditions.

7. OTHER IMPORTANT BITS AND PIECES

TIP 16 – PERMITTED DEVELOPMENT RIGHTS WITHDRAWN?

You should also note that the local planning authority may have removed some of your permitted development rights by issuing an 'Article 4' direction. This will mean that you have to submit a planning application for work which normally does not need one.

Article 4 directions are made when the character of an area of acknowledged importance would be threatened. They are most common in conservation areas. You will probably know if your property is affected by such a direction, but you can check with the local planning authority if you are not sure.

TIP 17 – CAN YOU DEMOLISH A BUILDING AS PART OF THE PROPOSALS?

The PD rights set out in Part 6 do not specifically grant permitted development rights for the demolition of buildings or other structures. Demolition is covered elsewhere within the planning legislation.

Planning permission is not required for the demolition of:

- any building with a volume (measured externally) of under 50 cubic metres; and
- the whole or any part of any gate, fence, wall or other means of enclosure outside of a conservation area.

Beyond this, other types of demolition can usually be carried out as permitted development under Part 11, Class B of the GPDO. However, before you can carry out the demolition you may need to apply to the planning authority for a determination as to whether prior approval will be required for the method of demolition and any proposed restoration of the site.

Permission is required to demolish a listed building (including buildings within the curtilage of a listed building) and for relevant demolition in a conservation area

Demolition is a complex area and it is therefore recommended that you seek advice from the relevant local planning authority.

TIP 18 – NOTIFY THE AUTHORITY WHEN DEVELOPMENT IS COMPLETE

You must notify the local authority in writing within 7 days of substantial completion of any works permitted under Part 6 of the GPDO which relate to the erection, extension or alteration of a building.

TIP 19 – AGRICULTURAL USE OF BUILDING/EXTENSION CEASES WITHIN 10 YEARS OF COMPLETION

If the agricultural use of a building or significant extension/alteration permitted under PD rights ceases within 10 years from the date on which the development was substantially completed; and planning permission for an alternative use has not been granted (within 3 years from the date on which the use agricultural used permanently ceased), then the building, or extension, must be removed from the land which, so far as is practicable, must be restored to its condition before the development took place, or to such condition as may have been agreed in writing between the local planning authority and the developer.



8. THE PRIOR NOTIFICATION PROCEDURE

8.1 You must submit an application for Prior Notification of Proposed Agricultural development – application forms are available either through the Planning Portal website.

TIP 20 – NO WORK SHOULD BEGIN BEFORE THE PRIOR NOTIFICATION APPLICATION IS MADE

Remember: if it does, you cannot benefit from permitted development rights as you must have sought prior approval from the local authority before commencement of works.

If you have already started any works as detailed above then, in order to regularise the position, you will need to submit a full planning application for retrospective permission.

8.2 To help you with the process, we suggest using this as a starting point when putting together your prior notification application.

TIP 21 – THE STARTING POINT – KEY POINTS TO CONSIDER

- How large is the agricultural unit?
 - More than 5ha – refer to Class A – ensure all parts are met
 - Less than 5ha – refer to Class B – ensure all parts are met

Simple check list

- Are the proposed works designed for an agricultural use?
- Is there an agricultural trade or business in operation?
- Can you demonstrate that the works are reasonably required for the agricultural needs of the farm? Have you prepared a simple justification to demonstrate this, to submit in support of your application?
- Would the proposed works be within 25m of a hardened part of a trunk or classified road?
- Have you produced a written description of the proposed development?
- Do you have details of the materials to be used?
- Do you have a plan indicating the site?

8.3 If the answer to all of the above is yes, and all other relevant parts of the Order are met, and if the proposals are not included in the 'Development not permitted' lists then you are in a position to submit the prior notification application. We recommend that this is done online using the Planning Portal.

TIP 22 – DOCUMENTS TO SUBMIT AS PART OF THE PRIOR NOTIFICATION APPLICATION

You must submit a written description of the proposed development and of materials to be used, with a plan indicating the site, together with any fee.

If you want to give your prior notification application the best chance of success, submit additional information to provide the local authority with a good understanding of the existing agricultural activity in operation. This might include details of the land holding size, basic management systems in operation and details regarding agricultural justification for the proposed development. (This does not need to be a complex document.)

8.4 Under the prior notification procedure set out in the GPDO, the local planning authority has 28 days from receipt of the necessary information to decide whether its prior approval will be required for:

- the siting, design and external appearance of:
 - any agricultural or forestry buildings (under Class A); or
 - the building as extended or altered (under Class B);
- the siting and means of construction of a private way;
- the siting of excavation or deposit (Class A); and
- the siting and appearance of fish tanks (Class A).

8.5 The local planning authority must let you know of its decision within this 28 day timeframe as to whether it is necessary for you to go through the prior approval process, or else inform you of its decision to allow or refuse the prior notification proposal.

8.6 If within the 28 days it tells you that prior approval is not required, you may go ahead in accordance with the details you submitted. If you have not been informed of any decision within 28 days of the date the local planning authority received the notification, you may be able to proceed with the

development. It might be sensible to contact the local authority to check that this is the case.

**TIP 23 – THE 28 DAY TIMEFRAME FOR RESPONSE
VERY IMPORTANT**

If the local authority does not respond within the 28 day timeframe, it could be that you have ‘deemed’ consent and can proceed with the works as proposed. However, you must be mindful that you can only benefit from permitted development rights IF the proposals are, indeed, permitted development and ALL necessary criteria detailed at Class A or Class B have been met. If, for example, there is no agricultural trade or business in operation OR the use is mainly equestrian OR the proposal is for a livestock shed within 400m of a ‘protected building’, the proposals **are not permitted development**.

It is only if the proposals meet ALL of the relevant requirements of Part 6 that you can benefit from PD rights. Just because the local authority does not respond within 28 days does not make the proposals permitted development. **It would still be possible for the local authority to take Enforcement Action.** There are other alternatives at this point which include further dialogue with the local authority or, for example, the submission of a Certificate of Lawfulness of Proposed Use or Development application. (In such cases it may be wise to seek professional advice on this specific matter.)

8.7 Where the local planning authority give notice that prior approval is required, you must, within one week of receiving notice, display a site notice in the prescribed form on or near the land, which must stay up for at least three weeks. The planning authority has eight weeks from the receipt of the submitted prior approval details to issue its decision.

8.8 If approval is refused, or is granted subject to conditions with which you disagree, or if the decision is not taken within eight weeks, you will have the right of appeal. There is, however, no right of appeal against the decision of a local planning authority to require approval of details.

8.9 You should be aware that permitted development rights provided under the GPDO do not obviate the need to obtain other consents (e.g. from Natural England) where relevant.

TIP 24 – LISTED BUILDINGS AND CURTILAGE LISTED BUILDINGS

IMPORTANT

Please note that, regardless of the need for planning permission, if any of your farm buildings are listed or curtilage listed, then an application for listed building consent is likely to be required for any alterations. Please note that it is criminal offence to carry out works to a listed/curtilage listed building without consent from the Local Planning Authority.

Curtilage listed buildings can include buildings which are not listed in their own right, but pre-date 1948 and are located within the curtilage of a main listed building. This situation may occur, for example, if there is a main listed farmhouse with historic outbuildings.

If you are at all unsure of whether your buildings are listed or curtilage listed, please contact the relevant local authority for advice.

PRE-APPLICATION ADVICE SERVICE:

8.10 Pre-application advice can be sought from the South Downs National Park Authority (or the relevant District/City Council acting on behalf of the National Park) prior to submitting a prior notification or full planning application. This can help smooth out any potential issues at an early stage. Details are available on the SDNPA website:

www.southdowns.gov.uk/planning/making-an-application/pre-application/

AT ALL TIMES

Remember, IF development is carried out without the necessary planning permission, or is development which does not benefit from permitted development rights, this may lead to enforcement action



9. WHICH LOCAL AUTHORITY?

9.1 The SDNPA deal directly (planning@southdowns.gov.uk) with all planning questions, advice and applications in the following local authority areas:

- Adur District Council & Worthing Borough Council
- Arun District Council
- Brighton & Hove City Council
- Mid Sussex District Council
- Wealden District Council
- West Sussex, Hampshire and East Sussex County Councils (Minerals & Waste issues only).

9.2 The five remaining local authorities deal with these planning matters on behalf of the SDNPA, namely (please note that Lewes District Council now provides the planning service for the area of the National Park within Eastbourne Borough):

- Chichester District Council
 - Website: www.chichester.gov.uk
 - Email: dcplanning@chichester.gov.uk
- East Hampshire District Council
 - Website: www.easthants.gov.uk
 - Email: planningdev@easthants.gov.uk
- Horsham District Council
 - Website: www.horsham.gov.uk
 - Email: planning@horsham.gov.uk
- Lewes District Council (also covers the Eastbourne area of the Park)
 - Website: www.lewes.gov.uk
 - Email: planning@lewes.gov.uk

- Winchester City Council
 - Website: www.winchester.gov.uk
 - Email: planning@winchester.gov.uk

SOURCES OF INFORMATION:

- Planning Portal – www.planningportal.gov.uk
- Department for Communities and Local Governments – www.gov.uk/government/organisations/department-for-communities-and-local-government
- **The Town and Country Planning (General Permitted Development) (England) Order 2015**
- **Department for Communities and Local Government Technical Guidance – permitted development**
- The legislation which establishes when planning permission is required is complex – however, further information can be found on the **GOV.UK** website.

Disclaimer: This guidance is aimed at providing farmers/landowners with a useful tool to enable them to approach permitted development opportunities from a more informed position. There are many conditions and limitations associated with these PD rights – the guidance contained here seeks to simplify matters to some extent; and provides, where appropriate, tips from a practical aspect. These tips do not include full reference to every part of the various criteria contained within the General Permitted Development Order, instead concentrating on the aspects of more relevance to the target audience.

If you have a specific, complex issue, it is recommended that you seek advice from a professional adviser.

Contact:

South Downs National Park Authority

South Downs Centre

North Street

Midhurst

West Sussex

GU29 9DH

01730 814810