



BACKGROUND

Nearly 18 months since the bill was first published, the Levelling-up and Regeneration Bill (LURA) received Royal Assent and became law on 26 October 2023.

As is common with this type of legislation however, most of its provisions won't come into effect until enabling secondary legislation is in place.

One, not insignificant element of the LURA awaiting such secondary legislation is section 115. Section 115 will amend 171B of the Town and Country Planning Act 1990 by simply deleting the word four and replacing it with the word ten.

The effect of this modification will increase the time limit within which breaches of planning control in England can be enforced against for building operations and unauthorised change of use of a building to a dwelling, from 4 years to 10 years. It's hoped this change in the rules may relieve some pressure on authorities.

THE CURRENT POSITION

Operational development is wide in its scope and includes building, engineering, and mining, in, on, over or under land. Operational development that is not permitted development, may be subject to enforcement action if it has been carried out without consent. After 4 years from the date that operational development is substantially complete and as long as there has been no deceit or concealment, that development will be immune from enforcement action.

As is the case with operational development, if a use of a building or premises changes to be used as a single dwelling or multiple dwellings, no enforcement action can be taken after 4 years from the date the use began.

Once 4 years has expired and it is no longer possible for enforcement action to be taken, a previously unlawful development will become lawful. As an example, an extension to a property built without planning permission; or a house that was converted to flats without planning permission, will become lawful, if no enforcement action has been commenced within 4 years.



March 2024

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WHAT THE LURA CHANGES

The 4-year rule for breaches of planning control will be abolished and the planning enforcement period for all breaches of planning control will rise to 10 years.

So, the extension and the converted flats will have an extra 6 years, within which enforcement action can be taken, before they become lawful. This change will no doubt be of significant concern to any landowners/developers who own land or buildings without planning permission (or certificate of lawfulness) where the development has been carried out within the last 10 years.

WHEN ARE THE CHANGES GOING TO HAPPEN?

Answer: *“on such day as the Secretary of State may by regulations appoint”* (aka How long is a piece of string?).

There is no guidance on when the necessary secondary legislation will be coming forward. There have been occasions when secondary legislation has taken many years, even over a decade to come forward. Things can also move very quickly if there is an appetite for such change. It's unknown how much of a priority this change is for the current government. It's also potentially possible that following a general election later this year, it may never come forward.

If/when secondary legislation does come forward, it is likely to include transitional arrangement. These could range from, any 4-year rule cases already in progress will be allowed to run their course, to exceptions for those who have reached the 4-year exemption but have not yet reached the new 10-year exemption.

In the meantime, local authorities should expect an increase in applications for lawful development certificates.

LEVELLING UP AND REGENERATION ACT 2023 AND THE ABOLISHMENT OF THE “4 YEAR RULE”

About Pathfinder Legal Services Ltd's Planning and Highways Team

Planning and Highways is an area of law which impacts on everyone in the community but is rarely recognised until something goes wrong. Members of the public often expect rapid response times to complaints about pot holes, planning permission which has been granted in their local area or highways closures and Pathfinder Legal Services understands the importance of providing practical and timely advice on these matters. With the benefit of extensive legal expertise combined with a keen knowledge of historical detail and a solid understanding of legal principals, our team are able to guide you through all aspects of planning and highways law, taking into account the different duties and responsibilities of our clients.

About Pathfinder Legal Services Ltd

As a 'social enterprise law firm', Pathfinder Legal Services Ltd is one of the first of its kind to be established in the UK and is wholly owned by Cambridgeshire County and Central Bedfordshire Councils. We are experts in our field and provide a tailored legal service exclusively to the public and not-for-profit sectors, our clients are key, and our fees reflect this: our charging rates are substantially reduced and our billing system transparent. Our credibility, values and focus remain paramount to all that we do as a publicly owned legal service provider, with clients including Local Authorities, Integrated Care Boards, Foundation Trusts, Charities and Fire Services. In 2021 the firm was awarded 'Law Firm of the Year' (under its previous trading name of LGSS Law Ltd) at the prestigious Cambridgeshire Law Society's legal awards.

If you are keen to find out more about Pathfinder Legal Services including how our services work, our billing process and how to instruct us, please contact us at operations@pathfinderlegal.co.uk

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