

WEST OXFORDSHIRE DISTRICT COUNCIL

DEVELOPMENT CONTROL COMMITTEE

MONDAY 10 DECEMBER 2018

**PROPOSED RESPONSE TO GOVERNMENT CONSULTATION REGARDING NEW
PERMITTED DEVELOPMENT RIGHTS**

REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING

(Contact: Phil Shaw; Tel: (01993) 861687)

1. PURPOSE

To advise the Committee of a recent Government consultation and ask it to endorse the suggested response, which will be considered by Cabinet on Wednesday 12 December.

2. RECOMMENDATION

That the suggested response included in the [Appendix](#) to the report be endorsed, for consideration by Cabinet.

3. BACKGROUND

- 3.1. On 29 October the Government published a consultation document entitled “*Planning Reform: Supporting the high street and increasing the delivery of new homes*”. The consultation seeks comments on various proposed reforms to the Planning system with the aim of boosting UK house building and supporting the High Street, and closes on 14 January 2019.
- 3.2. The consultation sets out proposals for permitted development rights to support the high street including allowing greater flexibility for change of use, extending buildings upwards to create new homes and removing the permitted development right for telephone kiosks and associated advertising consent. In addition, there are proposals to increase the height limit for electric vehicle charging points in off street parking spaces to accommodate rapid charging points and make permanent two currently time-limited rights to change use from storage or distribution to residential use and for larger home extensions. Views are also invited on the feasibility of a permitted development right for the redevelopment of a commercial site to create new homes.
- 3.3. The consultation also proposes to extend local authorities’ freedoms to dispose of surplus land at less than best consideration without the Secretary of State’s consent, invites comments on a draft listed building consent order to allow routine works to the Canal & River Trust’s structures without the need for individual applications and on draft guidance on new town development corporations’ compulsory purchase powers.
- 3.4. The full consultation document is available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752222/Planning_reform_-_supporting_the_high_street_and_increasing_the_delivery_of_new_homes.pdf or by entering the title quoted in paragraph 3.1 into a search engine.

4. ASSESSMENT

- 4.1. Some of the reforms seek to make permanent permitted development rights that were first introduced on a temporary basis, others seek to take account of issues that have

arisen in terms of phone boxes being used primarily as advertisement hoardings whilst others seek to encourage the use of electric vehicle charging points.

- 4.2. More major proposed reforms would allow the change of use of shops etc without the need for planning permission and would give a permitted development right to extend upwards in order to create additional dwellings and to create dwellings from warehouse uses. The detailed responses to these proposals are set out in the [Appendix](#) but in terms of the proposed reform to allow use of warehouses this could result in loss of economic capacity and inappropriate living conditions which should be assessed in the round as part of the assessment of an applications.
- 4.3. In terms of the upwards extensions, these could have many issues in terms of fire safety, car parking capacity, what happens on sloping sites, what happens to the visual interest of skylines if all buildings are of a uniform height etc, and as such officers foresee major concerns that are again more properly addressed by way of the submission and assessment of a planning application. The revised NPPF already sets out at paragraph 85f that residential development often plays an important role in ensuring the vitality of town centres and should be encouraged on appropriate sites, and at paragraph 118e that planning authorities should support use of the airspace above existing residential and commercial premises for new homes where the development is consistent with the prevailing height and form of neighbouring properties and the overall street scene is well designed and can make safe access and egress for occupiers. This general encouragement to support applications appears preferable to removing such alterations from the need for permission altogether.
- 4.4. The suggested response in full is set out in the [Appendix](#).

5. ALTERNATIVES/OPTIONS

Members could decide not to comment or to raise further or different points

6. FINANCIAL IMPLICATIONS

None arising directly from this report

7. RISKS

None identified.

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Background Papers:
None

A consultation response to 'Part I Permitted development rights and use classes' of the Ministry of Housing, Communities and Local Government Planning Reform: Supporting the high street and increasing the delivery of new homes.

Part I. Permitted development rights and use classes

Allow greater change of use to support high streets to adapt and diversify

Question I.1: Do you agree that there should be a new permitted development right to allow shops (A1) financial and professional services (A2), hot food takeaways (A5), betting shops, pay day loan shop and launderettes to change to office use (B1)? Please give your reasons.

We do not believe further rights should be introduced without a clear need to define whether such rights would apply specifically to main high streets and/or primary retail frontage, or whether such rights extend to 'all qualifying uses' regardless of location. In this circumstance, qualifying uses within villages and neighbourhood parades and precincts could inherently be put under pressure for conversion to B1 use. Furthermore, further rights could risk reducing the vibrancy and vitality of such qualifying frontages, as many pre-existing neighbourhood parades/precincts are not covered by Article 4 Directions and there remains a need to ensure active frontages and the needs of the immediate community is met. In addition concern expressed over whether any distinction will be made to uses over different floors, and parts of a building falling within mixed use.

Question I.2: Do you agree that there should be a new permitted development right to allow hot food takeaways (A5) to change to residential use (C3)? Please give your reasons.

We believe this would be dependent upon whether qualifying criteria considered the existing number of A5 uses within a particular area. Such criteria could prevent the loss of all A5 uses within particular areas, but allow the loss of existing A5 uses where there is already recognised over-proliferation. We acknowledge C3 uses are likely to cause fewer disturbances than A5, but recognise the location, siting and relationship of many A5 uses are likely to be undesirable for residential conversion. The right needs to acknowledge the need to maintain active frontages at different time of the day.

Question I.3: Are there any specific matters that should be considered for prior approval to change to office use?

In light of the above, an assessment as to existing use proportions would be useful in ensuring a proportion of any qualifying 'high street' remains as 'main town centre uses'. This is particular the case if such rights are intended to help not hinder the high street.

Temporary change of use

Question I.4: Do you agree that the permitted development right for the temporary change of use of the premises listed in paragraph 1.9 should allow change to a public library, exhibition hall, museum, clinic or health centre?

No fundamental objection was raised to extending the existing temporary change of use rights, but the need to consider the impact on qualifying locations which may be neighbourhood precincts/parades with a fragile composition of retail uses serving local community needs was again highlighted.

Question I.5: Are there other community uses to which temporary change of use should be allowed?

No other uses were identified

Question I.6: Do you agree that the temporary change of use should be extended from 2 years to 3 years?

No issues were identified in extending the existing temporary change of use from 2 years to 3 years.

Support for the high street through the Use Classes Order

Question I.7: Would changes to certain of the A use classes be helpful in supporting high streets?

We believe changes to certain A use classes would likely assist in making the distinctions between ancillary and often complimentary uses less rigid. For instance village shop/coffee shop, book shop/coffee shop, barbers/coffee shop, coffee shop/retail, retail electric tobacconist/coffee shop, hair salon etc. Smaller high streets require the ability to be as flexible as possible in order to ensure vacancy rates are kept to a minimum and those uses which are not able to be accessed online e.g. coffee shops, are allowed to thrive whilst exploring often ancillary complimentary uses. Preference should be given only to vacant units in order to prevent the leaching of existing high street uses to more undesirable uses.

Question I.8: If so, which would be the most suitable approach?

- a. that the A1 use class should be simplified to ensure it captures current and future retail models;
 - or,
 - b. that the A1, A2 and A3 use classes should be merged to create a single use class?
- Please give your reasons.

We believe the A1 use class should be simplified to ensure they capture current and future retail models, rather than merging existing use classes. This provides councils with the ability to consider distinct uses in context and assess the composition and health of the high street through annual monitoring.

A new permitted development right to support housing delivery by extending buildings upwards to create additional new homes

Question I.9: Do you think there is a role for a permitted development right to provide additional self-contained homes by extending certain premises upwards?

Concern was expressed around the potential for such rights to conflict with building control requirements (fire safety) and car parking capacity within an immediate area. Concern was also identified whether such rights would contain qualifying criteria applicable to sloping sites. Concern was also expressed as to the visual interest of the skyline, which is an important consideration in many parts of West Oxfordshire. Reference was made to those modern and historic buildings which are of uniform height, and the implications such rights may have on preventing a thorough scrutiny of design and impact. Such rights would effectively remove any aspect of judgement from what would be largely prominent developments in town centres. Such assessment currently forms an integral part of any planning application. There was a general encouragement to support applications in accordance with the existing and permissive aims of the NPPF, rather than a preference to see the removal of such alterations from the need for permission altogether.

Question I.10: Do you think there is a role for local design codes to improve outcomes from the application of the proposed right?

There is support for local design codes, but the mechanics of allowing a new permitted development right would be difficult to reconcile with the need to undertake an assessment of character and may lead to a less effective form of planning permission, in which the LPA is not able to resist inappropriate development.

Question 1.11: Which is the more suitable approach to a new permitted development right:
a. that it allows premises to extend up to the roofline of the highest building in a terrace; or
b. that it allows building up to the prevailing roof height in the locality?

It was felt to depend on context. In more historical settings which may or may not fall outside of Article 4 Directions, the prevailing roof height in the locality could be wide-ranging, yet extending to the highest building in the terrace could create more uniformity. In modern high street locations this may be easier to assess, but deliberately removes variation and character from a modern building which has been designed in a particular way to integrate with more traditional buildings nearby.

Question 1.12: Do you agree that there should be an overall limit of no more than 5 storeys above ground level once extended?

Yes, but 5 storeys could be a considerable height when related to historical village and town centres in this district, and whilst curtailed possibly by those factors highlighted in 1.11, outlying buildings and/or terraces could allow much larger additions to be permitted.

Question 1.13: How do you think a permitted development right should address the impact where the ground is not level?

Yes, see answer 1.9.

Question 1.14: Do you agree that, separately, there should be a right for additional storeys on purpose built free standing blocks of flats? If so, how many storeys should be allowed?

This is difficult to determine as would heavily depend on the site circumstances, the structural integrity of the block and its location.

Question 1.15: Do you agree that the premises in paragraph 1.21 would be suitable to include in a permitted development right to extend upwards to create additional new homes?

In many cases they would not be if inadequate access arrangements and inappropriate residential relationships existed with nearby non-residential uses.

Question 1.16: Are there other types of premises, such as those in paragraph 1.22 that would be suitable to include in a permitted development right to extend upwards to create additional new homes?

No view expressed.

Question 1.17: Do you agree that a permitted development right should allow the local authority to consider the extent of the works proposed?

Yes, for the reason given in 1.15.

Question 1.18: Do you agree that in managing the impact of the proposal, the matters set out in paragraphs 1.25 -1.27 should be considered in a prior approval?

The Council would agree with these matters, and welcome the need for prior approval to consider the design, siting and appearance of the upward extension and its impact on the amenity and character of the area.

Question 1.19: Are there any other planning matters that should be considered?

Car parking, neighbourliness, impact on evening economy if too many residents move into area with greater expectation of quiet evenings

Question I.20: Should a permitted development right also allow for the upward extension of a dwelling for the enlargement of an existing home? If so, what considerations should apply?

Concern was expressed over the potential loss of fee income which would occur with any greater proportion of household applications being dealt with via the prior approval process. It adds complexity and confusion rather than providing the light touch approach prior approval was originally intended to offer

The permitted development right to install public call boxes and associated advertisement consent

Question I.21: Do you agree that the permitted development right for public call boxes (telephone kiosks) should be removed?

No view expressed to this matter

Question I.22: Do you agree that deemed consent which allows an advertisement to be placed on a single side of a telephone kiosk should be removed?

No view expressed to this matter.

Increasing the height threshold for the permitted development right for electric vehicle charging points in areas used for off-street parking

Question I.23: Do you agree the proposed increased height limit for an electrical vehicle charging point upstand in an off-street parking space that is not within the curtilage of a dwellinghouse?

A distinction would need to be made for allowing such extended rights in locations within Article 4 Directions and or with the setting of designated areas.

Making permanent two time-limited permitted development rights

A. Change of use from storage or distribution to residential

Question I.24: Do you agree that the existing time-limited permitted development right for change of use from storage or distribution to residential is made permanent?

Concern expressed over the change of use of warehouses could result in the permanent loss of economic capacity and employment land within the district, and have a knock on implication for Economic policies within the Local Plan. Such measures may also risk increasing the likelihood of inappropriate living conditions which should be assessed in the round as part of the assessment of an application.

B. Larger extensions to dwellinghouses

Question I.25: Do you agree that the time-limited permitted development right for larger extensions to dwellinghouses is made permanent?

No objection was raised to this proposal.

Question I.26: Do you agree that a fee should be charged for a prior approval application for a larger extension to a dwellinghouse?

Yes, see answer to question I.20.

Supporting housing delivery by allowing for the demolition of commercial buildings and redevelopment as residential

Question I.27: Do you support a permitted development right for the high quality redevelopment of commercial sites, including demolition and replacement build as residential, which retained the existing developer contributions?

From a development management perspective, primary concern expressed were over permanent loss of employment land and loss of suitable alternative commercial sites which would have allowed existing businesses to expand and the proliferation of poor quality residential development within, or surrounded by existing commercial development. putting pressure on retained businesses There is also a need to avoid the perverse incentive in High Value areas such as West Oxfordshire of closing viable business space merely to create poor quality dwellings- particularly where under the Oxfordshire Growth Deal we are more than meeting our housing needs and it is employment sites that are in short supply. If it does apply it should solely apply to sites that are vacant and have been for some while

Question I.28: What considerations would be important in framing any future right for the demolition of commercial buildings and their redevelopment as residential to ensure that it brings the most sites forward for redevelopment?

How would such a process interact with the government's recent release of the Brownfield Register, and/or the Permission in Principle procedure and when would a particular qualify for consideration under either or avenue for consent.? It is an additional unnecessary complication

Question I.29: Do you have any comments on the impact of any of the measures?

- i. Allow greater change of use to support high streets to adapt and diversify
- ii. Introducing a new right to extend existing buildings upwards to create additional new homes
- iii. Removing permitted development rights and advertisement consent in respect of public call boxes (telephone kiosks).
- iv. Increasing the height limits for electric vehicle charging points in off-street parking spaces
- v. Making permanent the right for the change of use from storage to residential
- vi. Making permanent the right for larger extensions to dwellinghouses

No further comments made.

Question I.30: Do you have any views about the implications of our proposed changes on people with protected characteristics as defined in the Equality Act 2010? What evidence do you have on these matters? Is there anything that could be done to mitigate any impact identified?

No comments made on people with protected characteristics as defined in on the Equality Act 2010.