

Planning Applications Committee

06 September 2023



Reading
Borough Council

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Title	UPDATE to CONSULTATION ON PLANNING PERMITTED DEVELOPMENT RIGHTS
Report author	Julie Williams, Development Manager (Planning & Building Control)
Recommendations	The Committee is asked: 1. To agree the officer responses provided on the attached appendix on topics of relevance to Reading or confirm delegation to finalise responses with the Lead Councillor and the Chair of PAC.

1. Purpose of Update report

- 1.1 The main report advises Committee about a current consultation by the Government on changes to permitted development rights. The main report does not provide officer responses and instead seeks Committee's agreement for officers to share recommended responses with the Lead Councillor and the Chair of PAC before submitting.
- 1.2 Officers have however been able to provide responses to most questions and these are shared with you in the appendix.

Appendix 1 – Questions Officers propose to respond to

Q.1 Do you agree that prior approvals for design or external appearance in existing permitted development rights should be replaced by consideration of design codes where they are in place locally?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

Adherence to local design codes will give local communities greater control over the design and appearance of permitted development within their areas than is currently the case. However, the drafting of the permitted development right should ensure that, in cases where local design codes are not in place at that time, design and external appearance still be subject consideration against appropriate national and local planning policies.

Q.3 Do you agree that the permitted development right for the change of use from the Commercial, Business and Service use class (Use Class E) to residential (Class MA of Part 3), should be amended to either:

- a) ~~Double the floorspace that can change use to 3,000 square metres~~
- b) ~~Remove the limit on the amount of floorspace that can change use~~
- c) No change
- d) Don't know

Please give your reasons.

The Council has serious concerns about the implications of the class MA permitted development right, as follows:

- The size and type of accommodation rarely matches local needs, with a dominance of very small units of one bedroom;
- The quality of accommodation is often poor and does not fulfil planning requirements around access to outdoor amenity space, accessibility, adaptability and sustainability;
- The conditions do not allow consideration of noise from sources other than commercial activity, such as road or rail noise or noise from outdoor events;
- There is no scope to consider the impact of poor air quality on residents;
- Proposals result in a loss of potentially important employment floorspace;
- The introduction of residential onto a site could have significant implications on surrounding business in terms of additional complaints, and could prevent them expanding or intensifying their operations on site;
- The impact on the health of high streets of a loss of important services and facilities is potentially extremely significant;
- Proposals fail to provide much needed affordable housing; and
- Proposals may not fully mitigate their impact on local infrastructure.

All of these implications would be made more severe if the floorspace limit were to be increased to 3,000 sq m, or removed entirely. In particular, the health of the high street could be seriously

impacted because 3,000 sq m could easily represent most or all of the retail floorspace of a smaller centre, or a vital anchor store of a larger centre, and could be lost in one development.

It is also worth noting that recent Article 4 directions that have been introduced have been predicated on the existing size thresholds. Authorities, including Reading Borough Council, have been instructed to consider the degree to which permitted development rights can be taken up in certain areas based on conditions such as size thresholds. The proposed changes would undermine many of these directions and significantly affect the ability of local authorities to manage their areas.

Q.4 Do you agree that the permitted development right (Class MA of Part 3) should be amended to remove the requirement that the premises must be vacant for at least three continuous months immediately prior to the date of the application for prior approval?

- a) ~~Yes~~
- b) **No**
- c) ~~Don't know~~

Please give your reasons.

The justification that has frequently been given for permitted development rights to convert commercial to residential is that it helps make beneficial use of vacant floorspace. The proposed change lays bare the fact that it is actually occupied floorspace as opposed to vacant floorspace which is frequently the subject of changes under permitted development rights. The three month requirement already resulted in an extremely high level of flexibility for applicants, and did not represent a particularly onerous requirement.

Q.6 Do you think the prior approval that allows for the local consideration of the impacts of the change of use of the ground floor in conservation areas on the character or sustainability of the conservation is working well in practice?

- a) ~~Yes~~
- b) ~~No~~
- c) **Don't know**

Please give your reasons.

If no, please explain why you don't think the prior approval works in practice?

The Council has limited experience so far of applying this particular condition of prior approval. However, we consider that this represents a vital safeguard that must be retained. Changes of use between commercial and residential can fundamentally alter the character of an area. Conservation areas are designated on the basis of their special architectural or historic interest, and the presence of commercial activity within a conservation area can be an essential part of that historic interest. Many conservation areas include historic town centres that have served their communities for hundreds of years, and failing to ensure the continuation of that activity risks causing serious harm to the historic interest of an area. Reading Borough Council is currently working with Historic England on a High Street Heritage Action Zone project relating to various streets in conservation areas in the town centre that in some cases have had a retail

role for hundreds of years. This focuses on part on historic shopfronts. Even without physical external changes, any loss of ground floor retail or related uses in areas such as this would have a severe detrimental impact on the historic interest of the area. As a minimum this should be addressed through prior approval, although the Council's view remains that a planning application should be submitted.

Q.7 Do you agree that permitted development rights should support the change of use of hotels, boarding houses or guest houses (Use Class C1) to dwellinghouses?

a) Yes

b) No

c) Don't know

Please give your reasons.

Permitted development rights that allow changes of use to residential are already far too expensive, and the Council is opposed to any proposal to extend these further. In our view, changes of use from use class C1 to residential would potentially have the following significant impacts:

- Resulting in a potentially poor quality standard of accommodation that has limited or no private or communal amenity space, does not meet local accessibility, adaptability and sustainability standards, and does not necessarily have windows, and where impacts on the amenity of residents is not considered other than in a few limited instances;
- Providing mainly small, in particular one-bedroom, dwellings that do not address the local housing needs where a significant amount of family accommodation is required;
- Depending on location and the conditions which apply, being potentially subject to high levels of noise and disturbance that cannot be addressed through mitigation measures secured as part of a planning application;
- Placing residents in locations where they may be subject to very poor levels of air quality without the opportunity to secure mitigation through a planning application process;
- Missing opportunities to provide much needed affordable housing and failing to deliver mixed and balanced communities as a result; and
- Failing to secure adequate infrastructure support to fully mitigate the impacts of the development.

The Housing, Communities and Local Government Committee produced a report in July 2021 that followed an in-depth assessment of the impact of the approach to permitted development rights. This report clearly recommended a pause in further extensions of permitted development rights for change of use to residential to allow a review of their role in the planning system to be carried out, that would include a long-term vision for how such rights should be used in a way that provides new residential whilst retaining the abilities of local authorities to shape their communities. It is disappointing to see that these recommendations are not being followed, and no such review is being carried out, and instead further extensions of permitted development rights are now proposed.

Q.8 Are there any safeguards or specific matters that should be considered if the change of use of hotels, boarding houses or guest houses (Use Class C1) to dwellinghouses was supported through permitted development rights?

a) Yes

b) No

c) Don't know

Please give your reasons.

If yes, please specify.

As set out above, the Council's strong position is that changes of use to residential should require a planning application. However, should the proposed permitted development right to convert hotels to residential be taken forward, it is vital that the following elements are covered:

- Noise (from all sources, not simply commercial activity);
- Air quality;
- Contamination;
- Accessibility and adaptability of the dwellings;
- Access to private or communal outdoor space;
- Flood risk;
- Transport impacts;
- Design and external appearance;
- Provision of natural light to include windows;
- Impacts on existing businesses of residential use within the area;
- Type and size of residential accommodation to be provided.

Given the extent of the important considerations, it would be best to deal with such developments as a planning application.

Q.10 Do you think that changes to Class MA will lead to the delivery of new homes that would not have been brought forward under a planning application?

a) Yes

b) No

c) Don't know

If so, please give your reasons

The evidence within Reading is that there was no noticeable increase in levels of housing delivery across the Borough as a result of the introduction of new permitted development rights that allow a change of use to residential. The annual average net housing completions in Reading between 2003 and 2013, before introduction of class O permitted development rights, was 665, whereas the annual average from 2013 to 2021 was 626. This is despite class O permitted development rights having had significant take-up. It is not therefore expected that these proposals will significantly increase housing supply. Where it is appropriate, hotels can still be converted to residential use through the planning permission route, ensuring that relevant impacts are considered.

Q. 11 Do you agree that the right for the change of use from hot food takeaways, betting offices, pay day loan shops and launderettes (Class M of Part 3) is amended to:

a) Double the floorspace that can change use to 300 square metres

b) Remove the limit on the amount of floorspace that can change use

c) No change

d) Don't know

Please give your reasons.

It is not clear why this is necessary. As set out in the answer to Q7, the Council is opposed to further expansion of permitted development rights that would allow changes of use to residential. Takeaways, betting offices, loan shops and launderettes all contribute to the diversity of a centre, particularly a small district or local centre. The further expansion of permitted development rights would potentially result in the loss of facilities that contribute to those centres' strength and would make only a very minimal contribution to new housing supply.

Q.12 Do you agree that the existing right (Class M of Part 3) is amended to no longer apply to launderettes?

a) Yes

b) No

c) Don't know

Please give your reasons

Launderettes are an important local facility and it is important to ensure that they are not lost to residential use without consideration through a planning application process. However, this is also the case for a great many different services and facilities covered by class MA and sui generis uses, and loss of these facilities should also require submission of a planning application.

Q. 13 Do you agree that the right for the change of use from amusement arcades and centres, and casinos (Class N of Part 3) is amended to:

a) ~~Double the floorspace that can change use to 300 square metres~~

b) ~~Remove the limit on the amount of floorspace that can change use~~

c) No change

d) Don't know

Please give your reasons.

As for Q11, it is not clear why this is necessary. Amusement arcades and casinos can bring vibrancy to centres. The further expansion of permitted development rights would potentially result in the loss of facilities that contribute to those centres' strength and would make only a very minimal contribution to new housing supply. In addition, if size limits are to be removed entirely, this opens the possibility of larger casinos, often in primarily industrial locations or main arterial routes, being converted to residential use, which brings additional impacts in terms of noise, disturbance, air quality and impacts on the potential expansion and ongoing use of adjacent business premises.

Q.14 Do you agree that the right (Class M of Part 3) should be amended to replace the existing date on which the building must have been in use as a hot food takeaway, betting office, pay day loan shop or launderette instead to a two-year rolling requirement?

- a) Yes
- b) No**
- c) Don't know

Please give your reasons.

A two year rolling requirement is too short to avoid the situation where a change of use is undertaken in the short-term with a long-term intention to convert to residential. It is understood that at some point a rolling requirement will be necessary, but in our view five years is appropriate.

Q.15 Do you agree that the right (Class N of Part 3) should be amended to replace the existing date on which the building must have been in use as an amusement arcade or centre, or casino instead to two-year rolling requirement?

- a) Yes
- b) No**
- c) Don't know

Please give your reasons.

A two year rolling requirement is too short to avoid the situation where a change of use is undertaken in the short-term with a long-term intention to convert to residential. It is understood that at some point a rolling requirement will be necessary, but in our view five years is appropriate.

Q.20 Do you agree that the right (Class G of Part 3) is expanded to allow for mixed use residential above other existing uses?

- a) Yes
- b) No**
- c) Don't know

Please give your reasons.

If yes, please say which uses the right might apply to and give your reasons.

It is assumed that the question relates to mixed use including residential above existing uses. The consultation does not detail which uses would be subject to these permitted development rights, and as such it is not possible to answer this question in full, but if it refers to high street uses it is assumed that these are mainly sui generis uses such as takeaways, launderettes, amusement arcades, casinos, public houses, beauty salons and potentially cinemas and theatres. Most of these uses have significant noise and disturbance implications for any residential on upper floors, and class G does not offer any prior approval route under which these implications can be considered. Even if this is not the case within the building itself, there is every chance that adjacent uses would cause such issues. This would result in very poor levels of amenity to residents.

Q.21 Do you agree that the number of flats that may be delivered under the right (Class G of Part 3) is doubled from two to four?

- a) ~~Yes~~
- b) No**
- c) ~~Don't know~~

Please give your reasons.

As stated in the consultation, there is already a permitted development route through which many of these conversions can be made, namely class MA. Class MA changes of use at least include a prior approval process that allows for consideration of some, but not all, important impacts. The proposal to increase the number of dwellings that can be delivered will result in more dwellings in areas where they are potentially subject to high levels of noise and disturbance and poor air quality, and without consideration of the quality of the accommodation in terms of matters such as access to outdoor amenity space.

Q.22 Do you agree that the permitted development right (Class H of Part 3) is amended to align with any changes made to the uses to which Class G of Part 3 applies?

- a) ~~Yes~~
- b) No**
- c) ~~Don't know~~

Please give your reasons.

Whilst the Council agrees that, as detailed in the consultation, if Class G is amended to refer to additional uses then Class H should also be amended to prevent these additional uses changing to betting shops and payday lenders, the implication of aligning Class G and H is that changes of use from a mixed use including up to four flats to a purely commercial use will not require planning permission. This could result in the loss of substantial amounts of existing residential through permitted development, which will run counter to the intention of boosting housing supply.

Q.57 Do you agree that the maximum floorspace limit for the extension or alteration to a Commercial, Business and Service establishment on non-protected land is increased to either 200 square metres or a 100% increase over the original building, whichever is lesser?

- a) ~~Yes~~
- b) No**
- c) ~~Don't know~~

Please give your reasons.

A general relaxation could lead to many different impacts for local residents and businesses which should be subject to consultation and controls by the LPA. However, a relaxation may be supported if within a Core Employment Area, or a local equivalent, as designated in a local plan.

Q.58 Do you agree that the maximum floorspace of a new industrial and/or warehousing building on non-protected land permitted under the Part 7 Class H permitted development right be amended to 400 square metres?

- a) ~~Yes~~
- b) No**
- c) ~~Don't know~~

Please give your reasons.

A general relaxation could lead to many different impacts for local residents and businesses which should be subject to consultation and controls by the LPA. However, a relaxation may be supported if within a Core Employment Area, or a local equivalent, as designated in a local plan.

Q.59 Do you agree that the maximum floorspace of a new industrial and/or warehousing extension on non-protected land be increased to either 1,500 square metres or a 75% increase over the original building, whichever is lesser.

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

A general relaxation could lead to many different impacts for local residents and businesses which should be subject to consultation and controls by the LPA. However, a relaxation may be supported if within a Core Employment Area, or local equivalent, as designated in a local plan.

Q.61 Do you agree that the permitted development right for the temporary use of land should be amended so that markets can operate either:

- a) 28 days per calendar year (in line with other uses permitted under the right)
- b) A different number of days per calendar year
- c) No change
- d) Don't know

Please give your reasons. If you have chosen a different number of days per calendar year, please specify what number of days the right should provide for?

Seems like a sensible idea.