

READING BOROUGH COUNCIL

REPORT BY EXECUTIVE DIRECTOR OF ECONOMIC GROWTH & NEIGHBOURHOOD SERVICES

TO:	PLANNING APPLICATIONS COMMITTEE		
DATE:	26 JUNE 2019		
TITLE:	UPDATE ON GOVERNMENT RESPONSE TO CONSULTATIONS ON PLANNING REFORMS		
LEAD COUNCILLORS:	COUNCILLOR PAGE	PORTFOLIO:	STRATEGIC ENVIRONMENT, PLANNING AND TRANSPORT
SERVICE:	COUNCILLOR McKENNA PLANNING	WARD:	CHAIR, PLANNING APPLICATIONS COMMITTEE BOROUGHWIDE
LEAD OFFICER:	JULIE WILLIAMS	TEL:	0118 937 2461
JOB TITLE:	ACTING PLANNING MANAGER	E-MAIL:	Julie.williams@reading.gov.uk

1. PURPOSE AND SUMMARY OF REPORT

- 1.1 This report summarises in Section 4 the outcome of consultations recently undertaken by the Ministry of Housing, Communities and Local Government (MHCLG). Officers provided a report to Committee in January setting out officer views on the then proposed changes to permitted development rights and use classes. As agreed by the Chair of Planning Applications Committee and the Lead Councillor for Strategic Environment Planning and Transport officer comments were then forwarded to MHCLG.

2.0 RECOMMENDED ACTION

- 2.1 That the Committee notes the contents of this report.

3. BACKGROUND AND ISSUES

- 3.1 The consultation document was in 4 parts:
- **Part 1:** Permitted development rights and use classes;
 - **Part 2:** Disposal of local authority land;
 - **Part 3:** Canal & River Trust: Draft listed building consent order;
 - **Part 4:** New town development corporations: Draft compulsory purchase guidance

Officers concentrated our comments on Part 1 proposals as being the area of most relevance to the responsibilities of this committee.

- 3.2 Officers found the most contentious proposals related to the upward extension of existing buildings using the airspace above existing buildings for additional new homes and extensions and the suggested creation of a PD right to allow the demolition of existing commercial buildings and the redevelopment of the sites for housing. The consultation also sought views on:
- new permitted development rights to allow greater flexibility for change of use;
 - removal of the right to install new public call boxes and the associated advertising consent;

- increasing the height threshold for the installation of off-street electric vehicle charging points.
- making other existing time-limited rights permanent, and
- making an update to the Use Classes Order to reflect changes in high streets.

4. THE GOVERNMENT RESPONSE

4.1 Statutory Instrument 2019/907 - The Town and Country (Permitted Development, Advertisement and Compensation Amendments)(England) Regulations 2019 was made on 1st May and came into force on 25th May. It brings in some of the proposed changes covered by the consultation. At the beginning of May the government also published “Government response to consultation on planning reform: supporting the high street and increasing the delivery of new homes” to record comments received and to explain their proposed intentions. The following is a summary of this report.

- **Part 1: Permitted development rights and use classes;**

a) Permitted development to extending buildings upwards to create additional new homes

4.2 The consultation asked if it should be made permitted development to build up to use the airspace above premises to extend a property. The government was also considering a similar permitted development right to apply to purpose built, free-standing blocks of flats (within Use Class C3) over 5 storeys in height to provide additional new homes through top hatting or upwards extensions. The government had proposed that upward extensions should be permitted on premises in a range of uses that are compatible with C3 residential use; such as retail uses or leisure uses. The process proposed was by Prior Approval. An application fee per extra dwelling created would be required.

4.3 **Officers objected** on the basis that it the list of considerations for prior approval to be given is little different to the considerations that would be made in a planning application. The planning fee would be reduced but it looks as though prior approval could be refused on design or amenity grounds which would be the more significant concerns in such developments. The main benefit for the development industry would be that a local planning authority could not seek affordable housing and such pd would avoid any other Section 106 requirements (under current regulations it will usually be liable to pay CIL). This therefore becomes another form of development unnecessarily excluded from contributing to affordable housing.

4.4 More than half responding did not agree that upwards extensions should be delivered through a permitted development right. Concerns were raised that communities and local planning authorities would have no say over how and where a permitted development right might be applied; the quality of homes delivered by building up; how access and safety would be addressed; and the impact on the existing occupiers and neighbours of the premises being extended.

4.5 **The government hopes** to have a permitted development right to extend upwards certain existing buildings in commercial and residential use to deliver additional homes. However, given the concerns raised on the need to respect the design of the existing streetscape while ensuring the amenity of existing neighbours is considered and in recognition of the complexity of designing a permitted development right to build upwards the government has postponed bringing this forward.

b) Demolition of commercial buildings and replacement with housing

- 4.6 In the Autumn Budget of 2017 the government committed to consulting on introducing a permitted development right that would allow the demolition of commercial buildings and their replacement with residential development. The proposal was to make this permitted development on smaller sites.
- 4.7 **Officers objected** because we felt the consultation proposal ignored the vital issue of loss of employment land. Many authorities, including Reading, protect such buildings through policy in the strongest possible terms. A situation that enabled such units to be lost to housing without consideration of the impacts on the wider economy would run directly counter to the national emphasis on economic growth, and particularly enabling small business growth. We also thought the proposal unrealistic in operational terms since a host of exceptions would be needed to mitigate the risk of homes being provided in unsuitable locations through noise, fumes, traffic, etc., and employment uses being constrained in their operations through having to have regard to the amenity of nearby residential uses. Also another form of development unnecessarily excluded from contributing to providing affordable housing.
- 4.8 Less than a third responding to MHCLG considered a permitted development right for the demolition and replacement build of commercial sites possible. Generally, it was considered that such a right would go beyond what is appropriate to be delivered through a national permitted development right and that it would require extensive prior approval considerations. The extent of matters that would be required for prior approval is seen as an indication that the redevelopment of such sites should be considered through an application for planning permission considered against local and national policy
- 4.9 **The government intends** to continue looking at how a permitted development right to allow commercial buildings to be demolished and replaced with homes could be designed in the light of the views received to the consultation.

c) Allow greater change of use to support high streets to adapt and diversify with changes of use from retail to office use and hot food take-aways to residential use.

- 4.10 There was a balanced response to the first proposal with some welcoming the potential for greater flexibility and recognised that more office use on the high street could stimulate economic activity and promote a more mixed economy. Others had concerns that the ad hoc introduction of offices may undermine the ability of local authorities and communities to plan their high streets and protect the vitality of shopping areas. Support was given for the change from A5 to residential proposal as a means of combating obesity by reducing the number of fast food facilities but caveated by concern that ad hoc conversions could result in residential properties been located within concentrations of A5 uses with harm to amenities being an issue.
- 4.11 **The government has amended Part 3, Class J** of the GPDO to include new Class JA to allow changes from retail to office use under 500 sq.m. It has also amended Part 3, Class M to include takeaways (A5 Use) as being able to change to residential use.

d) Change of use from storage or distribution (B8) to residential

- 4.12 Class P in Part 3 introduced a permitted development right for change of use from storage or distribution (within certain limits) to residential use in 2015 for a period of three years. The right was extended in April 2018 for a further 14 months. At present Class P allows applicants to secure prior approval on or before 10 June 2019, and gives those with prior approval three years from the prior approval date in which to complete the change of use. The government sought views on making this right permanent.
- 4.13 **Officers commented** that these measures appear to have been little used in Reading but it is concerning that the government is proposing to make temporary measures permanent

with no reference to any case studies or any justification for making these changes permanent.

- 4.14 More than half of the responses did not support making permanent the permitted development right for change of use from storage or distribution to residential as it was considered there was an economic need to protect the provision of storage and distribution premises. Concerns also raised over the quality of homes delivered under the right.
- 4.15 **The government does not intend** to extend the time-limited beyond 10 June. Applicants who have secured prior approval on or before 10 June 2019 will have three years to implement the change from the date of prior approval.

e) Temporary changes of use

- 4.16 Views were sought on allowing temporary changes of use to be given longer time and to extend it to include specified community uses.
- 4.17 Officers had no comment on this proposal. In theory it would enable businesses to test the market and avoid premises being left empty. There was considerable support from respondents.
- 4.18 **The government has amended Part 5 Class D** to allow permitted development for temporary change of use to specified community uses within Use Class D1 for a period of 3 years.

f) Larger extensions to dwellinghouses

- 4.19 The permitted development right for larger extensions to dwellinghouses, introduced in 2013 to Part 1, Class A of the GPDO was originally intended to be temporary, but in 2014 this permitted development right was extended for three years, to May 2019. The government sought views on making the right permanent. The existing conditions would remain unchanged, but where prior approval of larger extensions is required under these rules, the government proposes to introduce an application fee of £96.
- 4.20 There was considerable support for making the permitted development right permanent particularly given the proposal to apply a fee.
- 4.21 **The government has amended Part 1, Class A** to make permanent the previously time-limited permitted development right for larger single storey rear extensions to dwellinghouses.

g) Public call boxes and advertisements

- 4.22 The consultation sought views on proposals to remove the permitted development right to install, alter or replace public call boxes (telephone kiosks) and the deemed consent for advertisements displayed on telephone kiosks. This is a subject that has proved to be controversial. There is also a closely connected issue regarding advertising displayed on these boxes, and so an amendment of the Control of Advertisement Regulations was also proposed.
- 4.23 Officers welcomed this proposal and there was overwhelming support (90%) to remove the permitted development right and to change the advertisement regulations. Reasons referred to the comprehensive network of public call boxes and that use is falling as a result of the widespread use of mobile telephones. They also had concerns that additional public call boxes were adding to street clutter.

- 4.24 **The government has amended Part 11** to remove the permitted development rights to install, alter or replace additional public call boxes (telephone kiosks) and the associated deemed consent for advertisements. Existing public call boxes will retain the permitted development right for alteration or replacement and where a surface of a public call box has previously been used to display an advertisement it can continue to be used for that purpose.

h) Increased size limits for off-street electric vehicle charging points

- 4.25 The Government proposes to increase the existing size limits for electric vehicle charging points located in off-street parking areas to facilitate rapid charging. Officers welcomed this proposal and there was considerable support.
- 4.26 **The government has amended Part2, Class E** to change the permitted development right for the installation of an electrical vehicle charging point upstand in an off-street parking space to increase the height limit to 2.3 metres to accommodate rapid charging points. Within the curtilage of a dwellinghouse or block of flats the existing height limit of 1.6 metres will remain. No changes will be made to the existing deemed consent to display a modest unilluminated advertisement with the name of the charge point installer or electricity supplier.

i) Changes to the A (Retail) Use Classes

- 4.27 The consultation paper indicates that the Use Classes Order might be amended in relation to the various Class A uses. This might involve the amalgamation or adjustment of some of the existing town centre uses (A1, A2, A3, A4 and A5).
- 4.28 **Officers commented** that any changes may result in local authorities losing control over drinking establishments takeaways and other town centre uses and make established town centre policies relating to town centre uses redundant. The proposed change would have very significant negative implications, in terms of increasing tensions between potentially incompatible uses, in terms of not adequately addressing significant impacts such as on traffic, and in terms of unacceptable loss of employment land, which could affect economic growth. The Council's strong view has always been that the change as proposed should not proceed.
- 4.29 There was considerable support for simplifying the A1 Use Class but with concerns over loss of control over concentration of uses.
- 4.30 **The government intends** to amend the retail use class to allow diversity and ancillary uses without undermining the amenity of an area.

Part 2: Disposal of local authority land;

- 4.31 Where local authorities wish to dispose of surplus land at less than best consideration ('undervalue') the Secretary of State's approval is required. There are well established consent procedures in place where local authorities seek to dispose of surplus land at less than best consideration. The government proposes to extend local authorities' freedoms to do so without seeking consent from the Secretary of State, thereby providing greater flexibility to dispose of surplus land in support of local development objectives.
- 4.32 There was considerable support for the introduction of a new consent for this type of land citing that there was no justification for a different approach to that for land held for purposes other than planning or housing and that it would reduce delays and uncertainty which can deter investors and disincentivise local authorities. Among those who supported a new consent, a clear majority favoured the consent applying to all disposals of land held for planning purposes regardless of the undervalue. There was overwhelming support for

applying the economic, social or environmental well-being criteria to any new general consent as these were considered to be important safeguards to ensure that local authority land was disposed of appropriately.

- 4.33 **The government intends** to consider the responses to this part of the consultation and will announce the way forward in due course.

Part 3: Canal & River Trust: Draft listed building consent order;

- 4.34 The government proposed to make the first listed building consent order which will allow minor, routine works to the Canal & River Trust's listed waterway structures without the need for individual listed building consent applications. This will remove unnecessary applications from the system while ensuring that appropriate protection for listed buildings and their settings is maintained.
- 4.35 There was strong support for these proposals. **The government intends** to take forward the Canal & River Trust listed building consent order as soon as Parliamentary time allows.

Part 4: New town development corporations: Draft compulsory purchase guidance

- 4.36 The government sought views on draft guidance on the compulsory purchase powers of new town development corporations. The guidance sets out, amongst other things, the factors which Ministers will take into account when deciding whether or not to confirm new town compulsory purchase orders. This is intended to provide additional clarity to those with an interest in proposed new settlements, including promoters, investors, infrastructure providers, landowners and local communities.
- 4.37 There was support for the draft guidance. **The government intends** to publish a final version of the guidance in due course.

5. CONTRIBUTION TO STRATEGIC AIMS

- 5.1 The Planning Service contributes to the Council's strategic aims in terms of:
- Seeking to meet the 2018 Corporate Plan objectives for "Keeping the town clean, safe, green and active."
 - Seeking to meet the 2018 Corporate Plan objectives for "Providing homes for those in most need."
 - Seeking to meet the 2018 Corporate Plan objectives for "Providing infrastructure to support the economy."

6. COMMUNITY ENGAGEMENT AND INFORMATION

- 6.1 There is no reference to these matters in the changes proposed.

7. EQUALITY IMPACT ASSESSMENT

- 7.1 Where appropriate the Council must have regard to its duties under the Equality Act 2010, Section 149, to have due regard to the need to—
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

7.2 There are no direct implications arising from the proposals.

8. LEGAL IMPLICATIONS

8.1 None arising from the Report.

9. FINANCIAL IMPLICATIONS

9.1 There are potential fee increases arising from the additional prior approvals intended by government.

Background Paper:

Item 07- PAC Agenda 9th January 2019.

Statutory Instrument 2019/907 - The Town and Country (Permitted Development, Advertisement and Compensation Amendments)(England) Regulations 2019.

Government response to consultation on planning reform: supporting the high street and increasing the delivery of new homes