

Chichester District Council

Planning Committee

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Consultation on changes to permitted development rules

1. Contact

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2. Recommendation

- 2.1. Planning Committee are asked to note the contents of the Ministry of Housing, Communities and Local Government consultation on planning reforms to allow greater flexibility within high streets and to speed up the delivery of houses, and to endorse the proposed response to part one of the consultation which proposes changes to permitted development rules.**

3. Background

- 3.1 The Ministry of Housing, Communities and Local Government (MHCLG) has published a consultation document titled 'Planning reform: supporting the high street and increasing the delivery of new homes'. MHCLG are seeking views on "proposals that will allow greater change of use to support high streets to adapt and diversify, support extending existing buildings upwards to create additional homes, and speed up the delivery of new homes."
- 3.2 The consultation period runs from 29 October 2018 until 14 January 2019. A copy of the MHCLG consultation document can be viewed online (see weblink below under 'Background Documents').

4. Consultation question responses

- 4.1 The consultation document asks questions about 4 issues including changes to permitted development regulations, disposal of local authority land regulations, works carried out by the canal trust and compulsory purchase regulations.
- 4.2 The proposed changes to permitted development rules as set out within part 1 of the consultation include new and amended permitted development rights

and changes to use classes, to support the vitality of the high street and to extend existing buildings upwards to create new homes. Questions have been asked about the following topics:

- i) Allowing greater change of use to support high streets in adapting and diversifying,
- ii) Allow certain building types in particular uses to extend upwards to create additional new homes,
- iii) Remove the existing right that allows the installation of, and advertising on, new public call boxes,
- iv) Increased size limits for off-street electric vehicle charging points,
- v) Make permanent two time-limited rights, and
- vi) Explore the feasibility of a new right to allow for the demolition of existing commercial buildings and their redevelopment as residential

i) Allowing greater change of use to support high streets to adapt and diversify

4.3 A range of measures are proposed within the consultation to allow greater changes of use to occur within town centres to provide for more houses and also to allow greater flexibility for buildings to change from one commercial use to another without planning permission. Measures include;

- allowing retail units, professional services, hot food takeaways, pay day loan shops, and launderettes to change to offices,
- to allow hot food take-away premises to change to dwellings
- to extend the temporary period of some existing permitted development rights for commercial premises from 2 years to 3 years, to allow businesses more time to establish
- to allow a temporary change of use of some commercial premises to community uses, and
- to merge the existing A1 (retail), A2 (professional services) and A3 (cafes and restaurants) into a single use class.

4.4 Whilst it is recognised that office space provides employment and economic activity officers do not consider that a new permitted development right to allow shops (A1) to change to office use would be acceptable. The retail policies in the adopted Local Plan and the Local Plan Review for Chichester are protective of the primary retail frontages in order to maintain a buoyant centre, and to lose retail floorspace to office would adversely affect these shopping areas. The plan allows for greater flexibility in secondary shopping areas where changes of use would not be harmful to the retail function of our towns. There would be less concern about a new permitted development to allow professional services (A2), hot food takeaways (A5) or betting shops, pay day loan shop and launderettes to change to office use (B1).

- 4.5 The existing permitted development rights allow for some temporary changes of use between retail, professional services, leisure uses, non-residential institutions and offices, and the proposal is to extend the existing permitted changes of use from 2 years to 3 years to allow for business to establish themselves. The changes of use between some of the commercial businesses are not a concern, however increasing the time for changes of use away from retail or office is a concern because it is essential that the retail function of our shopping areas and existing employment floorspace is protected in accordance with Local Plan policies.
- 4.6 Should changes of use away from retail or office be justified this can be assessed via a planning application that would require evidence to demonstrate that a retail/office use is no longer required in accordance with Local Plan policies. The proposed extension to the permitted development rights would undermine the Local Plan policies that seek to prevent the loss of retail units and employment floor space, and the proposed changes are not considered to be acceptable.

ii) Allow certain building types in particular uses to extend upwards to create additional new homes

- 4.7 The consultation document suggests that building upwards from existing buildings could play an important part in delivering new homes, and that the creation of a new right to build in the airspace above existing buildings would enhance the streetscape, boost housing density in high demand areas, increasing footfall in town centres and preventing garden grabbing. The proposal is to consider the introduction of a permitted development right to support the creation of new homes above certain existing buildings in high streets and town centres. This would not apply in Article 2(3) land (including conservation areas, areas of outstanding natural beauty, the Broads, National Parks and World Heritage Sites), designated areas such as sites of special scientific interest (SSSI) or heritage assets and land in their curtilage. The provision would be subject to prior approval by the LPA.
- 4.8 The consultation asks 12 questions about matters such as how such a change could be implemented, how local design codes could be used, what considerations should apply, whether prior approval should be required, what height limits would be appropriate.
- 4.9 The consultation asks whether upward extensions above buildings should also be considered for out of town retail and leisure sites, and also to existing dwellings in residential areas.

4.10 Chichester encourages the use of upper floors for residential uses in high streets and town centres where a mix of uses are compatible and they help create sustainable communities and shopping areas with vitality. However the provision of houses above out of town retail parks would not result in an acceptable form of development, and the likely harm of such development would not be outweighed by the benefits of new housing. In addition, it is considered important that the character and visual amenity of residential areas is not diminished by upward extensions where such forms of development may be inappropriate.

4.11 It is considered that a planning application is the appropriate way to assess whether a roof extension would be acceptable having regard to the character of an area, the impact upon neighbours, the detailed design and whether the creation of a residential unit would result in an acceptable form of housing for future occupiers. Further, the requirement for agreed parameters, design codes and other limitations to manage the impacts of development would result in a complicated process that would likely not speed up the delivery of houses. As such, officers do not consider that the proposed right to build in the form of upward extensions to existing buildings without planning permission should be pursued by MHCLG.

iii) Remove the existing right that allows the installation of, and advertising on, new public call boxes

4.12 Planning permission is not currently required for telephone kiosks, and the consultation indicates that due to the technological advances the need for additional telephone kiosks is limited. Under the Town and Country Planning (Control of Advertisements) Regulations 2007, as amended, advertisements can be displayed on a single side of telephone kiosk without express consent. There is a concern that telephone kiosks may be installed with the purpose of providing an advertisement opportunity rather than for its need to provide telephone communications equipment. The proposal is to remove this provision for any new telephone kiosks, to allow the merits of an application for advertisement consent to be considered alongside a planning application for a kiosk.

4.13 This amendment would increase the level of control the council has over adverts on telephone kiosks and would reduce the amount of paraphernalia created by structures such as phone kiosks and the visual clutter of adverts, which would improve the appearance of our streets.

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

4.12 At present there is a height limit of 1.6m and the proposal is to increase the maximum height to 2.3m, other than within the curtilage of dwellinghouse where the limit would remain at 1.6m. The increase in height is required to provide larger and more effective charging points for electric vehicles. Given such vehicle charging point upstands are not permitted within 2m of a highway, within sites that are scheduled ancient monuments or within the curtilage of a listed building and the number is limited to 1 upstand per parking space it is considered that increasing the height of upstands outside of residential properties would not cause significant harm that would outweigh the benefits of improving the facilities available for the charging of electric vehicles. In principle there are no concerns about increasing the height limit, although wherever possible providers should be encouraged to use

v) Make permanent two time-limited rights

a) Change of use from storage or distribution to residential

4.13 The Town and Country Planning (General Permitted Development) Order 2015 grants permission for the change of use storage or distribution units to residential until. Although housing is a priority we do need to maintain a healthy economy and therefore officers would not want see a loss of any more employment land / area to other uses that would then need to be replaced on greenfield land allocations. Therefore it is recommended that Chichester District Council should not support this right within the GPDO being made permanent.

b) Larger extensions to dwellinghouses

4.14 The Town and Country Planning (General Permitted Development) Order 2015 allows for householders to extend their dwellings up to 8 metres in length for detached houses, and up to 6 metres in length for semi-detached and terrace houses, subject to consultation with neighbours on amenity as part of a prior approval application process. This right does not apply in Article 2(3) land (including conservation areas, areas of outstanding natural beauty, the Broads, National Parks and World Heritage Sites).

4.15 The right falls away in May 2019, and the proposal is to make this provision permanent. At present there is no fee for this application and the proposal is to introduce a fee of £96 to reflect the fees of other prior approvals. The Council has received a number of applications for prior approval and given there is a check in terms of the impact upon neighbours of the larger extensions proposed it is considered that this provision should be made permanent, and that a fee should be introduced to cover the costs of the work involved with these applications.

vi) Explore the feasibility of a new right to allow for the demolition of existing commercial buildings and their redevelopment as residential

- 4.16 The proposal is to allow the demolition of existing commercial buildings and replacement buildings to provide residential properties as permitted development. This is a concern; Local Planning Authorities determine the amount of employment land and commercial premises required when preparing local plans and prepare policies accordingly. An application for planning permission would be considered against these policies in line with the plan led system. Seeking to create a permission in principle by such a use of permitted development rights undermines the plan led system by limiting the relevant considerations. Appropriate applications are likely to be approved in any event under the currently requirement to apply for planning permission, and the purpose of switching them to a different approval process is unclear and makes the system more complex rather than simpler.
- 4.17 The proposed new permitted development right may also result in dwellings in inappropriate locations removed from existing residential areas and amenities. The conversion of units on industrial parks or isolated commercial properties in the countryside would be unlikely to deliver homes in the right locations. The ability to replace commercial buildings with new residential development should be assessed via a planning application to ensure that the commercial premises are no longer required for their commercial purpose and that residential development is located in sustainable locations with sufficient amenities, green space and services.
- 4.18 Officer responses to the consultation questions are set out in Appendix 1.

5.0 Proposed Council response

- 5.1 Members are asked to endorse the proposed Council response set out in Appendix 1. Any further comments will be incorporated prior to the response being forwarded to MHCLG.

6.0 Background documents

- 6.1 MHCLG Planning Reform: Supporting the high street and increasing the delivery of new homes (October 2018)
<https://www.gov.uk/government/consultations/planning-reform-supporting-the-high-street-and-increasing-the-delivery-of-new-homes>