

Chichester District Council

Planning Committee

Wednesday 6 January 2021

Consultation on Supporting housing delivery and public service infrastructure

1. Contact

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2. Recommendation

- 2.1. Planning Committee are asked to note the contents of the MHCLG consultation on proposed measures to support housing delivery, economic recovery, and public service infrastructure.**

3. Background

- 3.1 The Ministry for Housing, Communities and Local Government (MHCLG) has published a consultation document titled 'Supporting housing delivery and public service infrastructure'. MHCLG are seeking views on "a proposed new permitted development right for the change of use from Commercial, Business and Service use to residential to create new homes, measures to support public service infrastructure through the planning system, and the approach to simplifying and consolidating existing permitted development rights following changes to the Use Classes Order".
- 3.2 The consultation period runs from 3 December 2020 until 28 January 2020. 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 3 key measures;
- i. Supporting housing delivery through a new national permitted development right for the change of use from the Commercial, Business and Service use class to residential;
 - ii. Supporting public service infrastructure through the planning system; and
 - iii. Consolidation and simplification of existing permitted development rights.

4.2 The purpose of the first proposed measure is to create a planning system which provides greater certainty and flexibility so that it can immediately respond to the challenges the country faces. It is the intention of the second measure that extensions to the existing permitted development rights afforded to schools, colleges, universities, hospitals and prisons would enable these institutions to respond to changing demands without the need to seek planning permission. The consultation proposes that when planning permission is required for developments of the institutions listed above the process should be faster and the applications prioritised. As a result of the changes adopted to the Town and Country Planning (General Permitted Development) order 2015 (GPDO) in 2020, and those proposed under this consultation document the third measure would consolidate and simplify the permitted development rights.

i) Measure one: Supporting housing delivery through a new national permitted development right for the change of use from the Commercial, Business and Service use class to residential

4.3 In September 2020 the Town and Country Planning (Use Classes) Order 1987 was amended by the introduction of a new Commercial, Business and Service Use Class known as Class E. Class E incorporates a range of uses including; retail, café/restaurants, financial and other professional services, sport, recreation and fitness, medical and health services, child day care provision, offices, research and development and industrial processes. The creation of class E means that changing between these different types of use no longer constitutes a material change of use that would require planning permission. The consultation document proposes that permitted development rights are now introduced to automatically grant planning permission for a change of use from any of the uses within class E to residential.

4.4 At present the GPDO grants permission for changes of use of shops, financial services and offices to residential, including any building operations reasonably necessary to convert the building until 31 July 2021. The proposed change to permitted development rights would make these existing rights permanent and would also introduce permitted development rights to change the use of buildings that fall within class E (café/restaurants, sport, recreation and fitness, medical and health service, child care services, research and development and industrial processes) to dwellinghouses. Although the consultation document does not clearly state that the new permitted development rights would allow for building operations, it does state that the existing rights would be made permanent so it is highly likely that alterations to buildings would be included within the permitted development rights. The consultation proposes that all homes would be required to meet nationally

described space standards, and confirms that the Environmental Impact Assessment (EIA) and Habitats Regulations would apply.

- 4.5 It is proposed that the permitted development rights would apply in all locations, not just high streets and town centres, and to benefit from the permitted development right a building must have fallen within use class E on 1 September 2020. No size limits are proposed, and therefore the permitted development rights would apply to any building and there would be no limit on the number of houses that could be accommodated. The proposed permitted development rights would not apply within the most environmentally sensitive locations such as national parks, areas of outstanding natural beauty and sites of special scientific interest, however it would apply within conservation areas (above ground floor only) and there is no mention of listed buildings within the document.
- 4.6 There would be a range of matters that would be subject to prior approval including;
- flooding
 - transport
 - contamination
 - noise
 - provision of adequate natural light
 - fire safety
 - impact on intended occupiers in areas important for heavy industry and waste management
- 4.7 The document proposes that a fee would be payable of £96 per dwellinghouse, capped at 50 dwellings. It states that local planning authorities (LPAs) would benefit from a reduced number of applications offset by a reduction in fees, whilst developers would benefit from reduced costs of preparing a planning application and the community would benefit from quality new homes. It is considered that the proposed fee, which is lower than the respective planning application fee, would potentially impact upon service delivery. Although the GPDO would establish the principal of development there are a large number of matters that must be considered when assessing an application for prior approval. These include the Habitat Regulations, constraints that may affect whether the proposal would benefit from permitted development rights such as nitrate neutrality and, the impact upon designated sites such as the Chichester Harbour Special Protection Area. There would also need to be a technical consideration of whether the proposal meets the requirements of the GPDO. Experience of the existing regime has demonstrated that the consideration of a prior approval application is as complex, sometimes more so, than a planning application for the same proposal and takes no less resource. Therefore it is a concern that

applications under the prior approval regime are no less complex and take as much time to consider, however the fee received for processing the application would be considerably less than the requisite planning application fee. Therefore the LPA would not benefit in the manner suggested within the consultation document.

- 4.8 It is accepted that the efficient delivery of housing is essential to meeting the needs of future generations, and it is recognised that the current regime of permitted development rights to convert agricultural, offices and retail units has delivered housing where it would not otherwise have been considered acceptable when assessed against the Council's Development Plan. However, it is important not just to provide housing, but to build homes and cohesive communities that are sustainable with access to the right types of housing, services, facilities and open space, and this has not always been the case with dwellings permitted under the existing provisions within the GPDO. It is a concern that the extensive permitted development rights proposed would not only erode the efforts of the Council in planning for the delivery of high quality developments in the right locations, it would lead to a loss of existing commercial, retail and community uses which may lead to greater pressure for more built development in the future and planning for the provision of an increased amount of commercial floor space to protect the local economy.
- 4.9 The consultation document suggests that the proposal would result in the more efficient use of surplus properties falling within use class E. However, there is no requirement that the permitted development rights would apply to units that had been vacant for any length of time to demonstrate that they are surplus to requirements. Therefore it is plausible that existing shops, cafes, sport centres, medical centres, nursery's providing childcare and other uses falling within Use Class E could be lost to housing should the land owner choose to convert a building to residential. It is important that existing communities do not lose commercial uses, facilities and services that are essential to maintain their sustainability and therefore this is a significant concern. A further concern is whether the proposals would result in housing in the most appropriate locations. Whilst it may be appropriate for high streets to diversify or for town centres to shrink to respond to the changing retail market by introducing a greater proportion of residential uses, it is essential that these uses are directed to the right areas within town centres to ensure that the thriving core of a town centre is not diminished by a lack of available commercial premises. In addition, the proposed permitted development rights would apply to these uses in any location, for example out of town retail parks or industrial estates. Despite the proposals being required to meet space standards and have adequate natural light and ventilation the measures proposed would not ensure that future occupiers of the houses would be

afforded good access to services and facilities, adequate open space/play areas, and a high quality living environment.

4.10 The consultation document does not directly seek views on the principle of the proposed changes; however some of the concerns set out within this report are weaved into the consultation responses where possible.

ii) Measure 2: Supporting public service infrastructure through the planning system

4.11 This measure relates to the delivery of new hospitals, schools, further education colleges and prisons as set out within the Government's Spending Review 25 November 2020 and the National Infrastructure Strategy. The proposals include extending permitted development rights for these services, reducing the time limit to determine applications (where required) from 13 weeks to 10 weeks and amendments to the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) to ensure that applications for public services are prioritised by LPA's.

4.12 The proposed changes to the permitted development rights for public services would include new buildings up to 25% of the existing floorspace or up to 250 sq. m, with limitations on heights and the amount of land that can be covered. In addition school playing fields would be afforded protection from the permitted development rights. It is considered that in principle this would be acceptable.

4.13 With regards to the changes in processing planning applications for public service applications, CDC receives a relatively small number of applications for public service developments and therefore the impact would not be significant. Part of the proposal would include reducing the publicity period and consultees would be required to prioritise the applications, and this would assist with the consideration of an application.

iii) Measure 3: Consolidation and simplification of existing permitted development rights

4.14 In September 2020 the Use Classes Order was amended and the former use classes that existed (A1, A2, A3 etc) were retained for the purposes of the GPDO only until 31 July 2021. It is therefore necessary to update the GPDO to reflect the new use classes. It is proposed that in undertaking the review the permitted development rights that allow for changes of use and also extensions and alterations to non-domestic buildings would be rationalised and simplified. Details of the proposed changes have not been included within

the document however it states it is possible that some existing permitted development rights would be relaxed and others more restrictive. It is considered that provided the matters that can currently be considered under prior approval applications, and the new provisions ensuring dwellings meet national space standards and have adequate light and ventilation are retained, then the impacts of consolidation are unlikely to be significant. Due to the significant number of amendments since 2015 it is considered that consolidation and simplification of the rules would be beneficial for LPAs.

4.15 Officer responses to the consultation questions are set out in Appendix 1.

5.0 Proposed Council response

5.1 The recommendation is;

a) for Members to note the consultation on 'Supporting housing delivery and public service infrastructure' to include; i. Supporting housing delivery through a new national permitted development right for the change of use from the Commercial, Business and Service use class to residential; ii. Supporting public service infrastructure through the planning system; and iii. Consolidation and simplification of existing permitted development rights, and b) to endorse and provide comments on 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 Supporting housing delivery and public service infrastructure (3 December 2020)
<https://www.gov.uk/government/consultations/supporting-housing-delivery-and-public-service-infrastructure/supporting-housing-delivery-and-public-service-infrastructure>