

Planning Consultation
Planning Development Management Division
Ministry of Housing, Communities and Local
Government
3rd floor, North East, Fry Building
2 Marsham Street
London
SW1P 4DF

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Sent by email: Planningconsultation2018@communities.gov.uk

To Whom it May Concern

Planning Reform: Supporting the high street and increasing the delivery of new homes

Response to consultation by Horsham District Council.

Part 1. Permitted development rights and use classes

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

Q1.1: 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.

Horsham District Council do not agree with this proposal. We have strong concerns that this permitted development right would significantly undermine the vitality and viability of designated town centres, village centres and local parades by diluting the attractiveness of these centres for people to visit, shop and eat, thereby reducing retail footfall, linked trips (particularly at the weekend when offices are not occupied) and accelerating the decline of these important centres. We recognise that high streets are seeing a period of decline but local plans and local policies should respond to this depending on the circumstances of each area. Allowing such a PD right could thwart those that are doing well instead of just managing those that are not. This is not a one size fits all approach or solution and the subsequent impact on successful centres such as those found in Horsham District could be very significant. If this permitted development right is to be pursued relevant units within designated town and local centres (primary and secondary frontages) and designated local parades should be exempted in a similar manner to existing Part 3 Class M rights. Large out of centre A1 units should also be exempted. If this right is to be pursued it is also unclear why Class A3 uses are not included. The Council is also concerned that a loss of retail to B1 will then result in a loss of this B1 to C3 residential through the already established Class O – offices to dwellinghouses, which over time would further erode key shopping areas.

Q1.2. 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.

Horsham District Council do not agree with this proposal. As above, there must be a restriction on conversion of A5 units to C3 dwellings within designated centres to avoid the stealth shrinkage of retail centres through loss of floorspace and subsequently footfall. Outside of these designated areas we would have no objection.

Q1.3. Are there any specific matters that should be considered for prior approval to change to office use?

Provided retail centres designated within Local Plans and large out of centre retail units are exempted as part of the prior approval regulations, we would not request further considerations other than that of flood risk, contaminated land and highways impacts. If the unit to be converted is in a designated centre or parade it should be a requirement that a shopfront is retained to maintain the appearance and continuity of the centre/parade and to allow for future easy conversion back to Class A use.

Temporary change of use

Q1.4. 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?

Horsham District Council would have no objection to including these additional uses as part of the temporary change of use regime as they would still encourage footfall into town and local centres complementary to their retail function. We would question the need and effectiveness of the temporary change of use regime as we have received negligible take-up under this regime since its introduction.

Q1.5. Are there other community uses to which temporary change of use should be allowed?

Horsham District Council would have no objection to uses such as crèches, art galleries and indoor play centres being included in the list of community uses permitted as these uses are complementary to a varied town centre offer and would help provide footfall and linked trips. Through a procedure of prior approval or similar there may be scope for additional community uses within both the existing D1 and D2 use classes provided no harm to local amenity is identified as part of the proposal. It is the view of Horsham District Council that subject to the consideration of noise and other amenity impacts community uses which encourage footfall and linked trips to the High Street should be encouraged.

Q1.6. Do you agree that the temporary change of use should be extended from 2 years to 3 years?

As above, we question generally the need and effectiveness of this regime given minimal take-up in Horsham District, but would have no objection to increasing the time limit to 3 years.

Support for the high street through the Use Classes Order

Q1.7. Would changes to certain of the A use classes be helpful in supporting high streets?

Horsham District Council would caution against removing the separate identity of A1 retail uses in the Use Classes Order given the importance of A1 retail uses in providing the majority of daytime footfall to designated centres. In the absence of protections for A1 retail uses in designated centres, their loss to other uses that attract less daytime footfall will likely accelerate the gradual decline of town centres, the exact opposite of what this consultation document is trying to achieve. Horsham District Council strongly considers that clustering A1 retail uses within key shopping areas remains vital to sustaining high streets and that the responsibility of regularly

reviewing primary and secondary retail boundaries and pro-active town centre management at the local level would be the optimum approach to take. Any other approach as advocated in this consultation document would be highly inconsistent with the Government's Town Centre first approach set out in the NPPF.

Q1.8. 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.

- a. Horsham District Council strongly advises that the A1 retail bracket and definitions must be retained in broadly the same guise as existing and not diluted further for the reasons set out in our response to Q.1.17 above. Simplifying the definition as proposed in paragraph 1.11 will lead to greater ambiguity as to what constitutes an A1 use, whereas the current definition is more clear cut.
- b. Horsham District Council agree that mixed A1/A2/A3 uses are becoming more commonplace and do not sit comfortably in the current Use Classes Order where there is no clear primary use. As per our answer to Q1.17 above, we would caution against the loss of A1 retail uses to uses that attract less daytime footfall. We would therefore support a revised definition of A1 that includes provision for a mixed A2 or A3 element up to a certain proportion of A1 sales floor space (suggested 40%) to allow for more flexibility and certainty.

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

Q1.9. Do you think there is a role for a permitted development right to provide additional self-contained homes by extending certain premises upwards?

No. Horsham District Council struggles to understand how a permitted development right to provide new dwellings by extending upwards would work in practice to ensure townscape character, heritage settings and neighbouring amenities are appropriately protected any prior approval regime will need to include a large number of considerations and standards open to interpretation. This would create a level of ambiguity in the regulations that would serve to provide none of the benefits of certainty for the development industry that is being sought. Rather, it would make for a very uncertain regime with little opportunity to negotiate and amend to reach a positive outcome given the strict timeframes for determination it would impose on planning authorities.

It would also likely create a set of criteria broadly similar to that which would otherwise be considered under any full planning application, but with a likely significantly lesser fee for Planning Authorities to offset the costs of determination, and less opportunity to negotiate high quality schemes due to the pressurised prior approval timeframe. In this context we consider it likely that applicant's would prefer the opportunity to negotiate consent via a full application rather than risk the complexity and ambiguity of any prior approval without such benefit.

Horsham District Council would also strongly question whether such a permitted development right would deliver any meaningful number of new dwellings that would not otherwise be granted under the full planning application regime. Given the potential impacts of taller buildings on townscape character and neighbouring amenity in particular any grant of permission by way of a 'light touch' permitted development regime would likely further undermine public trust in the planning system, which is recognised as a fair and equitable means to secure high quality development. The proposed approach appears to run counter to new design emphasis in NPPF. Such

development also poses a need to consider internal design. The existing permitted development rights from office to residential has resulted in flats that provide a poor internal environment for occupiers.

A further very significant concern to Horsham District Council is the impact the prior approval regime has on local democracy, as the strict prior approval timeframes do not readily allow for contentious applications to be considered by planning committees. We consider upward extensions will likely be very contentious for local communities and feel that they must be able to digest such proposals and engage fully in local democracy, including being able to make their case in front of planning committees. The prior approval regime for these sorts of contentious developments is not the right tool to protect and encourage local engagement and democracy in decision-making.

It is also our consideration that any proposal involving the potential increase in height should consider the heritage impact and should not apply where it is positioned on land adjacent to a listed building.

Q1.10. Do you think there is a role for local design codes to improve outcomes from the application of the proposed right?

Horsham District Council do not agree to this approach. We consider that requiring or encouraging local design codes to manage this prospective permitted development regime would create significant bureaucracy for planning authorities and local communities for little resultant gain. Horsham District Council strongly opposes the introduction of a permitted development regime for upward extensions from a technical and public interest perspective and considers the current full planning regime sufficient to positively manage such developments whilst retaining public trust and engagement in the planning system.

Height limits

Q1.11. 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?

Horsham District Council strongly considers neither approach to be appropriate, with the process as a whole ill thought through. The highest building may be a modern end-of-terrace addition significantly out of scale with the remainder of the terrace, thereby permitting further erratically located upward extensions to the significant detriment of the townscape. This would be most harmful in rural areas, within or in the setting of heritage assets and/or where the terrace has a distinctive character derived from its roofscape. Likewise it is unclear how 'locality' would be defined under option b), lending such an approach open to significant challenge at appeal and in the courts.

Q1.12. Do you agree that there should be an overall limit of no more than 5 storeys above ground level once extended?

Horsham District Council considers that a limit of 5 storeys above ground level, presumably in tandem with one of the approaches under Q1.11 would not alleviate the considerable concerns we have identified over the impact of such development on rural and townscape character, heritage setting and neighbouring amenity. Indeed we consider this crude blanket approach to be overly-simplistic and unresponsive to the variety of settlements and building forms across the country. For instance, five storeys would likely be dramatically out of scale and keeping with the character of most rural settlements in Horsham District where the majority of buildings and overall prevailing character is much less than 5 storeys, or indeed prohibitively low in denser urban areas where the prevailing building height may be similar.

Q1.13. How do you think a permitted development right should address the impact where the ground is not level?

Horsham District Council considers that the very fact this matter needs addressing is symptomatic of an unworkable permitted development right proposal. The complexity of considering ground levels against building heights in the terrace or locality alongside any other design and amenity criteria makes for an overly complex and frankly farcical permitted development right that would serve only to undermine public trust in the planning system working fairly and equitably in the public interest at large. The complexity of such proposals would almost certainly require a site visit and detailed consideration being of little difference to an existing planning permission.

Q1.14. 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?

Horsham District Council considers that purpose built free standing blocks of flats provide the best opportunity for creating new dwellings by way of upward extension, however the current full planning regime is best placed to manage the range of material considerations such development raises and maintains the current democratic process with proper consideration for neighbouring parties, the street scene and overall heritage impact. Encouragement for planning authorities to consider such extensions positively would be better derived from updates to the NPPF and PPG.

Premises that would benefit from a permitted development right to build upwards

Q1.15. 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?

No. Horsham District Council has expressed its strong concerns generally to this proposal but nevertheless considers if it is to be regrettably applied it should be applied to all buildings with uses that are compatible with residential occupancy and should not apply to any property adjacent to a listed building.

Q1.16. 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?

As above, although we would caution against including out-of-town retail parks where wider landscape impacts may arise from significant upward extension. Serious consideration will need to be given to whether the location is acceptable, not simply whether the use of the building is compliant. Out of town retail is reliant on the private car. To allow new dwellings would likely run contrary to the Councils strategy for growth. Such an approach is likely to result in further isolated dwellings (than already exist with the current agricultural permitted conversion rights) with limited public transport links, limited access to open space and limited parking allocations. Allowing residential above some uses such as health centres and retail does allow for active frontages and natural surveillance but we must ensure that housing is well designed and well located and such a PD right would be too complex to work in practice and ensure that we get good quality development.

Works to extend upwards

Q1.17. Do you agree that a permitted development right should allow the local authority to consider the extent of the works proposed?

Horsham District Council considers that the extent of works should be restricted to the footprint of the existing building only and allow for no development laterally beyond

any external wall to help protect the appearance of the building and area, and amenities of residents or other occupiers already in the building and adjacent.

Prior Approval

Q1.18. 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?

Horsham District Council is of the view that consideration of these matters is essential to any new prior approval regime, but would caution that such considerations are more or less identical to all considerations that would be material to any full planning application. On this basis, and as above, we strongly oppose these proposals as undermining public trust in the planning system and undermining planning authorities' abilities to make decisions that would potentially have a dramatic impact on townscape, heritage and residential amenity consistent with Local Plans, the NPPF and public expectation. We would also caution that using the prior approval regime for complex developments such as this would likely lead to planning authorities more commonly refusing these developments given the minimal opportunity to negotiate within the strict prior approval timeframes. The full planning regime provides for greater opportunity to negotiate positive outcomes which both planning authorities and applicants tend to prefer.

Q1.19. Are there any other planning matters that should be considered?

The consultation document makes no mention of the potential harmful impact of upward extensions on heritage assets. Without protections for heritage assets and their setting such extensions could significantly harm the roofscape to a conservation area and/or harmfully impact on the setting of an adjacent listed building. These are very significant material considerations that we consider must be included as part of any regime. Horsham District has many villages with historic cores, Conservation Areas and Listed Buildings. Should the application of this PD right only be excluded within Article 2 (3) land it remains inconsiderate of the general effect on the townscape, historic village centres and overall character. All of these aspects are best assessed through the existing planning application procedures.

Q1.20. 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?

Horsham District Council considers there to be no identifiable need for such a form of permitted development as significant PD rights already exist for householder extensions within Class A and B. We re-iterate our concerns above over the unnecessary complexity that any prior approval regime would need to provide for to be consistent with local and national policy and public expectation, and the damage that upward extensions would potentially have on townscape, heritage and residential amenity unless very tightly managed. Horsham District Council strongly favours such extensions are best considered under the current householder planning regime.

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

Q1.21. Do you agree that the permitted development right for public call boxes (telephone kiosks) should be removed?

Yes, Horsham District has no objection to this aspect of the proposal.

Q1.22. Do you agree that deemed consent which allows an advertisement to be placed on a single side of a telephone kiosk should be removed?

Yes, Horsham District has no objection to this aspect of the proposal.

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

Q1.23 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?

No objection.

Making permanent two time-limited permitted development rights

A. Change of use from storage or distribution to residential

Q1.24. Do you agree that the existing time-limited permitted development right for change of use from storage or distribution to residential is made permanent?

Horsham District Council has received relatively few applications for this type of development and at this stage such a conversion in a countryside location would run contrary to the Councils strategy for growth which is to concentrate residential development within towns and villages which have access to services and facilities. Horsham District is in close proximity to Gatwick Airport and therefore would wish to reduce the further loss of existing storage premises in order to continue to support local business and employment opportunities. Given the relatively few applications received for this nature of development it is not considered necessary to make permanent the time-limited permitted development right in this context.

B. Larger extensions to dwellinghouses

Q1.25. Do you agree that the time-limited permitted development right for larger extensions to dwellinghouses is made permanent?

Horsham District Council has received relatively few applications for this type of development and at this stage we remain of the view that such a permitted development right is not beneficial. Large extensions within dense urban areas are potentially contentious and the current regulations requires an objection to be received for amenity impact to be assessed. This would appear to be onerous upon neighbouring properties who may not wish to have their objection disclosed nor who may have had cause/time to view the proposal consequently giving the LPA no method with which to refuse an otherwise harmful extension. The making of this aspect permanent gives the local authority less time to consider the merits or impacts of such a development where the current democratic process, including that which allows a Committee to fully consider the proposal, would appear to still be the best method for assessing and adjudicating upon the impact of a large extension.

Q1.26. Do you agree that a fee should be charged for a prior approval application for a larger extension to a dwellinghouse?

Yes. Such proposals incurs significant costs to the Council in consulting residents, undertaking site visits and assessing proposals against the GPDO. The cost should reflect the cost to the Council of considering such a scheme.

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

Q1.27. 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?

No. Horsham District Council strongly opposes the introduction of this permitted development right for a number of reasons, not least as there are already appropriate national policies to support the redevelopment of brownfield land, including the

requirement to hold a brownfield register and ability for Council's to grant such consents via a Permission in Principle.

In the absence of any meaningful detail in the consultation document we struggle to see how such a blanket approach would sit consistent with local and national policy and therefore the sustainable development of the district. Consequently we see a permitted right of this scale as undermining the integrity of the planning system and the public's faith that all development will be fairly and consistently determined in the public interest. Principally:

- Such a regime would result in the loss of occupied and potentially key employment sites critical to the provision of employment in sustainable locations close to housing, transport connections and services. Given the proximity of the district to Gatwick airport the loss of employment floorspace is a serious concern and such an approach as proposed would be likely to undermine our current policy basis.
- Given the significant uplift in land value that would arise from this permitted right it is likely to lead over time to a significant loss of viable and occupied employment floorspace and the forced displacement of businesses to locations remote from their existing workforces, increasing commuting and promoting unsustainable patterns of development.
- A blanket approach would encourage the development of ad hoc housing in the countryside remote from local services and facilities, thereby promoting unsustainable patterns of development that would undermine the primacy and purpose of the development plan in allocating sustainable sites for housing, in clear contravention of the NPPF.
- How would 'high quality' development be delivered in practice
- Using the prior approval regime for housing developments of potentially significant scale and impact contrary to the provisions of the locally adopted development plan (including neighbourhood plans) would significantly undermine the consistency of decision making and limit the opportunity for public engagement and democracy in such decisions.
- The considerations necessary to appropriately determine such proposals would likely be the same as any full application but likely with less fee to offset costs to Planning Authorities
- Current local and national policies allow for the redevelopment of commercial sites where such sites are proven to not be viable. There is no indication in the consultation document that this current regime is not allowing for the appropriate redevelopment of such sites for housing. The overall proposal is contrary to a plan led approach, which encourages community and stakeholder engagement in allocating and bringing forward sites.

The implication is that any prior approval would in effect grant full planning permission for all aspects of the proposed re-development, rather than a permission similar to an outline permission. To ensure surrounding landscape and townscape character, neighbouring amenity, and heritage setting is suitably protected the level of detail required will need to be very significant.

Horsham District Council would recommend that such re-development is not pursued by way of permitted development, rather the NPPF and PPG should be updated to set clearer national policy on how the re-development of commercial sites must be considered by Planning Authorities. As the current development policy structure stands it is the local plan which is best placed to consider the employment floorspace requirements and the levels of protection required within the district.

Retaining the ability to require developer contributions including affordable housing and CIL must also be a pre-requisite of any permitted right otherwise further aspects of the entire development management system would be undermined.

Q1.28. 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?

As set out above, Horsham District Council considers there to be a critical need to include a number of safeguards to protect the integrity of the planning system consistent with the NPPF and local development plans. These safeguards are:

- Protection for Key Employment Sites and occupied commercial sites.
- Qualifying sites must not have been occupied for a set period in the preceding 3 years and preferably to include a period of active marketing to ensure viable employment opportunities are not lost simply to the benefit of the landowner.
- Exemption for sites outside defined settlement boundaries unless adjoining existing settlements
- There would preferably be a maximum site area or floorspace to be demolished.
- Policy compliant affordable housing must be provided alongside any necessary highway infrastructure and CIL
- Scale, design and density criteria must reflect local character
- Impact on setting of heritage assets must be a consideration
- Ecological safeguards are required, particularly in countryside locations
- Sustainable drainage systems will need to be agreed for larger sites to minimise flood risk

In consideration of all of the above there would not appear to be any benefit to the proposal as the number of safeguards required would remain similar to those considered within any planning application.

Impact Assessment

Q1.29. 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

- i. As we have set out above, Horsham District Council has strong concerns over the impact the stealth loss of A1 retail uses and unit numbers would have on the vitality and viability of town centres, local centres and local parades, with take up likely to be fairly significant and in the case of C3 uses in particular, irreversible. Such stealth loss would accelerate a downward spiral to the health of designated centres, the exact opposite of what the proposed policy is trying to achieve. We are of the strong view that the A1 retail use class must remain primary and distinctive, and that the health of town centres would be best managed locally by way of regular review of shopping area boundaries and by way of pro-active town centre management by Councils.
- ii. Horsham District Council strongly opposes the introduction of this prior approval permitted development right given the inevitable complexity and/or perverse outcomes that a permitted right would not be able to fully guard against. Given the sheer variety of contexts and potential outcomes we fail to see how this permitted right could be worded

to avoid harm to rural and urban townscape character, including most particularly the character and setting of heritage assets without involving a process which is substantial similar to the current planning application system resulting in a questioning of the benefit such a new approach provides.

- iii. No detrimental impact identified.
- iv. No detrimental impact identified.
- v. Concerns are retained with respect to the further loss of potential employment floorspace as identified above.
- vi. No detrimental impact identified provided a fee is introduced to allow planning authorities to recover the costs of processing and determining these applications.

Overall, and as set out in our response above, Horsham District Council has very significant concerns over the use of the prior approval regime for more complex forms of development such as upward extensions and the redevelopment of commercial sites. This concern is rooted principally in the inconsistency that would arise between the permitted development and local and national policy, including neighbourhood plans. This inconsistency would strengthen the argument that the planning system is two tier, too complex, and fails to consistently engage with, and work in, the public interest.

Furthermore, given the complexity of considerations and interpretations that would form part of these permitted rights, it would not lead to the certainty that the development industry requires. Rather, by being constrained by time, developers would have little/no opportunity to negotiate a positive outcome with planning authorities leading to more refusals and wasted expense compared to the full planning regime. The extension of many of the permitted development proposals could lead to poorly designed development. Ultimately we do not consider that these two proposed permitted rights would lead to any meaningful uplift in housing delivery that would not otherwise be best delivered by way of a full planning application determined in accordance with a publically consulted development plan and an updated NPPF and PPG.

Q1.30. 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?

The proposed permitted development right to re-develop commercial sites would likely undermine local policies that seek to provide 'lifetime' and wheelchair accessible housing by removing such policies from consideration. This will impact on the ability of Council's to plan sustainably for an aging population and secure good quality accessible accommodation with suitable space and access standards to assist it's disabled population in new developments.

Yours sincerely

Councillor Claire Vickers
Cabinet Member for Planning