

**Planning consultation: Supporting housing delivery and public service infrastructure, which proposes changes to the General Permitted Development Order**

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**Horsham District Council response – 27 January 2021**

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**Summary of Horsham District Councils key point**

Horsham District Council have a fundamental objection to a proposal which would facilitate the change of use of our high streets to residential, without the ability to consider the impact on the vitality and vibrancy of our towns and villages, and the impacts on neighbouring commercial premises. Residential values are often higher, therefore there is a very real possibility that high street uses will be lost forever. The new E class is considered to provide sufficient flexibility to meet market demands and retain our high streets as a place to shop and socialise. Furthermore, the creation of an E class use is in its infancy, having been introduced in a global pandemic, and has not had an opportunity to establish the flexibility it provides.

Local plans will need to consider the appropriate scale and location of our high streets at a local level, depending on local circumstances, to ensure high streets remain at the heart of our towns and villages. This may mean that some high streets are reduced in scale. A robust approach to our high streets and commercial premises must be secured through local plan inspectors, rather than enforcing a one size fits all approach by a permitted development right, which is not appropriate in Horsham District. We are carefully reviewing our retail and employment policies through a local plan review to ensure they are fit for purpose. Such a blatant disregard for our high streets through the potential change of use to residential, as set out in this consultation, is unacceptable.

This proposal is considered to be at odds with the principals of the NPPF and in particular chapters 6 and 7 which seek to ensure that the planning system builds a strong and competitive economy and ensures the vitality of our town centres is maintained. Paragraph 85 advises that policies and decisions should support the role town centres play at the heart of our communities, and we do not consider this proposed permitted development right achieves this. It also does not create an environment where our businesses can invest, expand and adapt as set out in paragraph 80, as this right would limit available options and their locations.

Horsham District Council support an approach of flexibility and adaptation but we strongly object to a permitted development right that could permanently change our high streets and commercial premises to residential without having an opportunity to fully consider its impacts.

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**Horsham District Councils responses to detailed Consultation Questions.**

Q1 Do you agree that there should be no size limit on the buildings that could benefit from the new permitted development right to change use ?

- **We consider there should be a size limit of 150 square metres inline with the existing M class**
- Larger stores are often an anchor to a high street, they attract footfall and other complimentary uses to the high street.
- If a larger retail use fails Local Authorities should be able to consider if any other appropriate town centre uses would be acceptable, which retain the vibrancy of our high streets
- A size limit will not limit the impact on the viability of our market towns which play an important role in meeting local needs. This areas have a larger proportion of smaller units.
- Horsham District Council have a fundamental objection to this proposal, but notwithstanding this if such a permitted development right were introduced there should be a size limit

Q2.1 Do you agree that the right should not apply in areas of outstanding natural beauty, The Broads, National Parks and World Heritage Sites:

- **If such a permitted development were to be introduced we agree this not apply to the above areas of designation.**
- The first purpose of the National Park makes it clear that natural beauty takes precedent within National Parks. Change of use under a prior approval mechanism can influence character and appearance, firstly, through expected works of conversion and secondly through the introduction of domestic paraphernalia and changes in parking, vehicle movement and external lighting.

Q2.2 Do you agree that the right should apply in Conservation Areas ?

- **We do not agree that the right should apply in Conservation Areas**
- A prior approval ground would not adequately secure the character and significance of high street conservation areas.
- The loss of retail, leisure, office and recreational facilities would effect a significant change in the character of Conservation Areas, firstly, through direct changes to shopfronts and a demand to remodel shopfronts to suit the privacy needs of future occupiers. Secondly, through a loss of activity and loss of 'active' frontages.
- Further detail as to the intended scope and application of a prior approval ground in this regard is necessary. Such a prior approval, if implemented must provide for an assessment of the cumulative effects of permitted development
- Impact on vitality and vibrancy. Active frontages support the appreciation of heritage assets

Q2.3 Do you agree that, in Conservation Areas only, the right should allow for prior approval of the impact of the ground floor use to residential

- **If such a permitted development were to be introduced we agree that the right should allow for the impact of ground floor uses to residential to be considered in Conservation Areas. It should though be considered for all applications, not just in Conservation Areas**
- If the government is minded to apply the permitted development right within Conservation Areas, it is deemed appropriate that a prior approval consideration for the effect of development on the significance of the relevant Conservation Area is included. Beyond a consideration of access to natural light or the raw size of a residential unit (relative to minimum space standards) the change of use of ground floor high street units warrants consideration as to the level of privacy from which future occupiers could benefit and of measures necessary to secure an adequate standard of privacy. This could adversely affect character and appearance through demand for privacy films/infilling of shopfronts etc.
- In rawest terms ground floor retail can be an integral component of the significance of a Conservation Area, and therefore, the impact of ground floor retail should be considered.
- The prior approval ground must provide sufficient to consider the cumulative effects of the proposed permitted development right

- Primary retail areas should also be a factor. The loss of key retail areas would affect the character of a town centre.

Q3.1 Do you agree that in managing the impact of the proposal, the matters set out in paragraph 21 of the consultation document should be considered in a prior approval?

- **The criteria do not ensure the long term retention of our high streets.**
- High streets do need to evolve and we need a flexibility of uses, however the balance of uses must ensure the vitality and vibrancy of our high streets are retained.
- The matters in paragraph 21 do not achieve this

Q3.2 Are there any other planning matters that should be considered?

- **Effects on continued vitality, vibrancy and viability of our towns and villages**
- **Effects on the amenity of neighbouring occupiers;**
- **Impact on character and neighbouring properties considered under new Class ZA, could be extended to this right**
- **The impact on business and new residents of the development's introduction of, or increase in, residential use in the area in which the development is to take place**

Q4.1 Do you agree that the new permitted development right to attract a fee of per dwellinghouse

- **It is appropriate to charge per dwelling. However, the current prior approval fees do not cover costs**
- Prior approval fees are already very low compared to a normal full planning application fee for the creation of a dwelling.
- Depth of consideration does increase with scale. It is deemed appropriate, therefore, that the application fee does too.

Q4.2 If you agree should this be set at a fee of £96 per dwellinghouse

- **No, it is not considered that a minimum fee of £96 is proportionate to the assessment to be made by the Local Planning Authority and the time investment required of Local Authority staff. A fee of £462 per dwelling created should be required in line with planning application fees**
- *The judgement in New World Payphones Ltd v Westminster City Council & Anor [2019] EWCA Civ 2250 emphasises that the LPA is duty bound to consider whether a prior notification can be regarded as a form of permitted development at a very minimum. Local Planning Authorities, therefore, are required to resolve fundamental questions as to the eligibility of individual proposals to benefit from the permitted development right before individual grounds for prior approval are even considered.*
- Prior-notifications are not necessarily streamlined or straightforward assessments, these can give rise to complex questions regarding eligibility and/or significant consideration of individual prior approval matters.
- Consideration of such applications can be time consuming and complex, this has an impact with regards to resources and time management

Q5. Do you have any other comments on the proposed right for Commercial, Business and Service to residential ?

- **It is not considered that a deregulatory approach will promote vibrant and thriving town centres as suggested at paragraphs 2 and 3 of the NPPF.**
- **Effects on vitality, vibrancy and viability of our high streets must be a consideration**
- **Such a right does not allow local authorities to plan positively and proactively for future commercial and/or retail need**
- **Cost implications in terms of loss of planning application fees, and the suggested fee would not cover the cost of the application to the local authority**

- Has an assessment and/or risk analysis has been undertaken to qualify the anticipated benefits and disadvantages of the governments preferred approach?
- Concerns with regards to loss of employment use. Following the change of use to residential it is unlikely that the premises would return to commercial use in the future

Q6.1 Do you think that the proposed right could impact on businesses, communities or Local Planning Authorities ?

- **Yes we do consider that such a right will have negative impacts on businesses, communities and Local Authority areas**
- **Housing will be prioritised above commercial and business needs, which are needed to sustain and employ our population**
- **Increased loss of viable commercial facilities as no test of vacancy and/or redundancy;**
- Covid19 has demonstrated the value of providing access to local detail and services, which has been critical for some users
- Uncertainty in terms of continued retention of retail and commercial facilities;
- Would impact on the vitality and viability of rural communities and high streets;
- Benefit of certainty to landowners and developers. Not certain for LPAs in planning for future need or as to the sustainability of existing retail/town centres;
- Increased provision of housing must be recognised as a benefit;
- There may be a future demand for commercial facilities resulting from a loss of facilities through the permitted development right. These may not be as sustainably located compared to those to be replaced.

Q6.2 Do you think that the proposed right could impact on people who share a protected characteristic ?

- **The proposal may be of detriment to those without access to travel and/or access to internet accounting for the detrimental effect on locally accessible services and amenities.**

Q7.1 Do you agree that the right for schools, colleges and universities, and hospitals be amended to allow for development which is not greater than 25% of the footprint, or up to 250 square metres of the current buildings on the site at the time the legislation is brought into force, whichever is the greater?

- **Agree in principle, dependent on space available and size of the site. There must be an ability to consider how the proposal achieves the high standards of design in the NPPF**
- Would this be allowed to encroach into parking areas for example, impact on highways/parking?
- Retention of stipulation restricting ingress into playing fields must be retained.

Q7.2 Do you agree that the right be amended to allow the height limit to be raised from 5 metres to 6?

- **Yes, in principle. Given the retention of the 10m gap required to boundaries the 1m increase considered to be appropriate. Given the rural nature of the district, this should not have an impact on neighbouring amenity**

Q7.3 Is there any evidence to support an increase above 6 metres?

- **None available, however re-iterate that given the rural nature of the district is not considered to be a major area of concern. Maybe more of a prominent issue in more built up and city environments.**

Q7.4 Do you agree that prisons should benefit from the same right to expand or add additional buildings?

- No comment to make

Q8. Do you have any other comments about the permitted development rights for schools, colleges, universities, hospitals and prisons?

- **Listed buildings and development in Conservation Areas should not be included within the considerations or new right.**

Q9.1 Do you think that the proposed amendments to the right in relation to schools, colleges and universities, and hospitals could impact on businesses, communities, or local planning authorities?

- **The proposal benefits the community in terms of additional jobs in construction and additional facilities for the public to make use of.**

Q9.2 Do you think that the proposed amendments to the right in relation to schools, colleges and universities, and hospitals could give rise to any impacts on people who share a protected characteristic?

- **Additional and upgraded facilities will benefit people who share protected characteristics**

Q10.1 Do you think that the proposed amendment to allow prisons to benefit from the right could impact on businesses, communities, or local planning authorities?

- No comment to make.

Q10.2 Do you think that the proposed amendment in respect of prisons could give rise to any impacts on people who share a protected characteristic?

- No comment to make.

Q11 Do you agree that the new public service application process, as set out in paragraphs 43 and 44 of the consultation document, should only apply to major development (which are not EIA developments)?

- **Priority for these developments is supported in principle.**
- Given the level of information required appropriate to extended to major only.

Q12 Do you agree the modified process should apply to hospitals, schools and further education colleges, and prisons, young offenders' institutions, and other criminal justice accommodation?

- **Agree in principle.**
- **Could be extended to provide further public sector facilities such as mental health facilities and social care facilities.**

Q13 Do you agree the determination period for applications falling within the scope of the modified process should be reduced to 10 weeks?

- **10 weeks is feasible**
- **However shorter process time could encourage a worse outcome**
- **Limiting time for consideration may not help with speed**

Q14. Do you agree the minimum consultation/publicity period should be reduced to 14 days?

- **A reduction to 14 days is feasible**
- However this creates a difficulty with consistency and understanding from the public with regard to the standard 21 day consultation with planning applications
- In our view the consultation timescales for planning relates applications should be the same

Q15. Do you agree the Secretary of State should be notified when a valid planning application is first submitted to a local planning authority and when the authority it anticipates making a decision?

- No Comments

Q16 Do you agree that the policy in paragraph 94 of the NPPF should be extended to require local planning authorities to engage proactively to resolve key planning issues of other public service infrastructure projects before applications are submitted?

- **Agree in principal but wording should state 'seek to resolve' to remove any predetermination concerns**

Q17.1 Do you have any comments on the other matters set out in this consultation document, including post-permission matters, guidance and planning fees?

- No Comments

Q17.2 Do you have any other suggestions on how these priority public service infrastructure projects should be prioritised within the planning system?

- No Comments

Q18 Do you think that the proposed amendments to the planning applications process for public service infrastructure projects could give rise to any impacts on people who share a protected characteristic?

- No Direct Impact

Q19.1 Do you agree with the broad approach to be applied to the review and update of existing permitted development rights in respect of categories 1, 2 and 3 outlined in paragraph 76 of the consultation document?

- No objection to Category 1 as the two uses now fall under Class E, which effectively allows for permitted changes of use between all of the uses under this umbrella.
- No comment with regards to category 2
- Category 3 views have been covered above. If the new right comes in there would be no reason to retain Class O.

Q19.2 Are there any additional issues that we should consider?

- These have already been explored and detailed above.

Q20 Do you agree that uses, such as betting shops and pay day loan shops, that are currently able to change use to a use now within the Commercial, Business and Service use class should be able to change use to any use within that class?

- It is our understanding that the Class E use class effectively allows for any of the uses within this to change. While this is currently temporary, it would still retain commercial and business premises' if brought in permanently.
- Flexibility could allow businesses to potentially expand to larger premises or downscale to preserve their status in difficult times

Q21 Do you agree the broad approach to be applied in respect of category 4 outlined in paragraph 76 of the consultation document?

- As answers to Q20.

Q22 Do you have any other comments about the consolidation and simplification of existing permitted development rights?

- None which have not already been raised.