

STRATEGIC PLANNING & INFRASTRUCTURE COMMITTEE

12 JANUARY 2021

URGENT UPDATE REPORT WITH REGARD TO GOVERNMENT CONSULTATION

Final Decision-Maker	Strategic Planning & Infrastructure Committee
Lead Head of Service	<i>Interim Director – Local Plan Review</i>
Lead Officer and Report Author	Head of Planning & Development
Classification	Public
Wards affected	All

Executive Summary

The government has published a **consultation (“Supporting housing delivery and public service infrastructure”)** on further reforms to the planning system to support housing delivery, economic recovery and public service infrastructure.

Purpose of Report

To seek Member input into the Council’s consultation response.

This report makes the following recommendations to this Committee:

That the Committee provide feedback on the broad approach as outlined in the report, in respect of four categories and whether any additional issues should be considered.

Timetable

Meeting	Date
Strategic Planning & Infrastructure Committee	12 January 2021

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1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p><i>The four Strategic Plan objectives are:</i></p> <ul style="list-style-type: none"> • <i>Embracing Growth and Enabling Infrastructure</i> • <i>Safe, Clean and Green</i> • <i>Homes and Communities</i> • <i>A Thriving Place</i> <p>• <i>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities.</i></p>	Rob Jarman
Cross Cutting Objectives	<i>Not applicable</i>	Rob Jarman
Risk Management	<i>Not applicable</i>	Rob Jarman
Financial	<i>Not applicable</i>	Rob Jarman
Staffing	<ul style="list-style-type: none"> • <i>We will deliver the recommendations with our current staffing.</i> 	Rob Jarman
Legal	<ul style="list-style-type: none"> • <i>Acting on the recommendations is within the Council's powers</i> 	Rob Jarman
Privacy and Data Protection	<i>Not applicable</i>	Policy and Information Team
Equalities	<ul style="list-style-type: none"> • <i>Government consultations have to contain equalities assessments</i> 	Rob Jarman
Public Health	<i>Not applicable</i>	[Public Health Officer]

Crime and Disorder	<i>Not applicable</i>	Rob Jarman
Procurement	<i>Not applicable</i>	Rob Jarman

2. INTRODUCTION AND BACKGROUND

The government has published a **consultation (“Supporting housing delivery and public service infrastructure”)** on further reforms to the planning system to support housing delivery, economic recovery and public service infrastructure.

On 3 December 2020, the government published the consultation “Supporting housing delivery and public service infrastructure”. The consultation seeks views on:

- A proposed new permitted development right (PDR) for a change of use from Class E (commercial, business and service) to Class C3 (dwellinghouses).
- Measures to support public service infrastructure through the planning system.
- Simplifying and consolidating existing PDRs following changes to the Town and Country Planning (Use Classes) Order 1987 (SI 1987/764) (UCO 1987).

The consultation relates to England only and **closes on 28 January 2021**. The consultation is open to the public and private sectors as well as the general public. **Councillors can choose to make their own comments on this consultation.**

2.1 New Permitted Development Rights (PDR) to allow a change of use from Class E to Class C3 (Part 1)

On 1 September 2020, Class E (commercial, business and service) came into existence (The Town and Country Planning (Use Classes) (Amendment) (England) Regulations).

Current PDRs already enable shops, financial and professional services, and offices to change to residential use, and these PDRs continue to apply until 31 July 2021.

The government is proposing a single PDR that would enable a change of use from any use within Class E to use as a dwellinghouse (Class C3). In order to benefit from the PDR, premises must have been in Class E use on 1 September 2020. No size limit on the buildings that can benefit from this PDR is currently proposed.

The PDR would not apply to:

- Sites of special scientific interest (SSSIs), national parks and areas of outstanding natural beauty (AONBs).

- Listed buildings and land within their curtilage.
- Sites that are or contain scheduled monuments.
- Safety hazard or military explosives storage areas.
- Sites subject to an agricultural tenancy.

However, the PDR would apply in conservation areas.

Prior approval would be required for certain matters. In considering which prior approvals to apply the government has drawn on those generally accepted in other PDRs that deliver new dwellings. For further information, see paragraph 21 of the consultation.

A prior approval fee is proposed. This would be set at the current prior approval fee of £96 per dwellinghouse capped at £4,800.

3. Supporting public service infrastructure through the planning system (Part 2) consultation

On 25 November 2020, the Chancellor of the Exchequer, Rishi Sunak, announced the Spending Review 2020. Alongside that review, the government published its **National Infrastructure Strategy**. The government wants to deliver infrastructure projects better, greener and faster, which means addressing "longstanding challenges such as complex planning processes and slow decision-making" (National Infrastructure Strategy).

The government is now **consulting** on a package of proposals "to streamline and speed up the planning process for these types of developments within the current planning system".

a) Extended PDRs for schools, further education establishments and hospitals

Class M, Part 7, Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (SI 2015/596) (GPDO 2015) grants deemed planning permission for the erection, extension or alteration of a school, college, university or hospital building. This is subject to limitations and conditions.

Extensions or additional buildings can be no more than 25% of the gross floorspace of the original buildings with a maximum cap of 100 square metres, or 250 square metres in the case of schools. The height of new buildings is restricted to 5 metres.

The government is proposing to amend this PDR to allow such uses to expand their facilities by up to 25% of the footprint of the current buildings on the site at the time the legislation is brought into force, or up to 250 square metres, whichever is the greater.

It is also proposed to raise the height limit from 5m to 6m (excluding plant on the roof) except where the building is within ten metres of the boundary or curtilage. The government is interested to know if there is any evidence that the height limit should be raised further, subject to

fire safety considerations.

To benefit from this PDR, the site would have to have sufficient land to build the extension or new building. In the case of schools, playing fields would continue to be protected.

b) New PDR for prisons

A new PDR is proposed for prisons. Prisons will be able to expand their facilities by up to 25% of the footprint of the current buildings on the site at the time the legislation is brought into force, or up to 250 square metres, whichever is the greater.

The buildings may be no higher than 6 metres (excluding plant on the roof).

This flexibility would apply specifically to prisons and not to other residential facilities, such as immigration removal centres.

c) A faster planning application process for certain public service developments

The government **intends** to modify the planning application process for certain public service infrastructure projects. Local planning authorities (LPAs) will be required to give greater prioritisation to these projects, including shorter timescales for determination.

In defining the developments that would fall within the scope of this new process, the government is proposing a two-tier approach based on the scale and definition of the proposed development.

Developments would fall within the scope of the modified process if they:

- Are "major development" carried out on a site having an area of one hectare or more, and/or involve the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more.
- Involve development of hospitals, schools and further education colleges, prisons, young offenders' institutions, and other criminal justice accommodation.
- Would currently be subject to a 13-week statutory determination period.

The proposed new application process would not apply to developments that fall within the definition of Environmental Impact Assessment (EIA) development.

The government is suggesting that the statutory determination period for this development would be ten weeks.

d) Consultation

To support faster decision-making, the government is proposing to shorten the statutory publicity and consultation periods for these type of applications from 21 days to 14 days.

e) Notifications to the Secretary of State

All LPAs in receipt of such applications will be required to inform the Secretary of State no later than eight weeks after validating the application, when a decision is anticipated.

f) Amending paragraph 94 of the National Planning Policy Framework (NPPF)

Paragraph 94 of the NPPF states that LPAs should work with schools' promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.

The government intends to expand this approach to other priority public infrastructure developments.

4. Consolidation and simplification of existing PDRs (Part 3) consultation

The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (SI 2020/757) made significant changes to the UCO 1987 on 1 September 2020.

New classes E (commercial, business and service), F1 (learning and non-residential institutions) and F2 (local community) were introduced. While use classes A1 to A5 (which included uses commonly found on the high street including shops, cafes and takeaways) and classes D1 (non-residential institutions) and D2 (assembly and leisure) were revoked.

However, the regulations also provided that existing PDRs that made reference to the use classes that were in force until 31 August 2020 should continue to be read that way until 31 July 2021.

As a result, references to use classes throughout the GPDO 2015 need to be reviewed and updated to enable legislative amendments to be made before 31 July 2021.

The government acknowledges that this review and update is a significant and complex exercise and could require the amendment of 49 individual rights and the insertion of additional paragraphs and articles. Annex A of the consultation list the PDRs and articles that need to be reviewed.

The government considers that the PDRs fall into four broad categories:

- Category 1: the PDR is no longer required.
- Category 2: the PDR is unchanged by the amendments to the UCO 1987 and therefore no amendment is necessary.

- Category 3: the PDR may be replaced by the proposed PDR.
- Category 4: the PDR requires detailed consideration.

While the focus will primarily be on Part 3 (changes of use), other parts of the GPDO 2015 raise similar issues, for example Part 4 (temporary buildings and uses) and Part 7 (non-domestic extensions, alterations and so on).

Views are invited on the broad approach in respect of these four categories and whether any additional issues should be considered.