

Consultation on ‘Changes to Permitted Development Rights’ draft response on behalf of Tunbridge Wells Borough Council 22 January 2021

Part 1 - 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

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 from Commercial, Business and Service (Class E) to residential (C3)?

TWBC have serious concerns with – and objects in the strongest terms to - the proposed change to the PDR in principle and disagree that there should be no size limits on the buildings that could benefit under the new PDR. The consultation as currently drafted allows for the change of use of any size building currently in commercial class E, irrespective of its size or location (subject to some specific exemptions).

This has the potential to have significant impacts on the range of commercial buildings – the loss of larger buildings which currently house large retail and other commercial uses as well as smaller units providing a different and complimentary offer. A range of property sizes provides the market with an appropriate mix and range of buildings to suit all occupiers and the proposals as drafted would have a detrimental impact on this and the commercial success and attractiveness of centres and wider areas.

Q2.1: Do you agree that the right should not apply in areas of outstanding natural beauty, the Broads, National Parks, areas specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981, and World Heritage Sites?

As above, TWBC objects in principle to the proposed changes. Notwithstanding this: Yes, TWBC agree that the rights should not apply in these protected areas, and additionally this should include Conservation Areas to be exempt to the new PDR – see response to question 2.2 below.

Q2.2: Do you agree that the right should apply in conservation areas?

No, TWBC believe that the right should not apply in Conservation Areas, and be treated in the same way as other exempt areas such as AONB, National Parks and other areas specified in the consultation.

It is considered that the protection of Conservation Areas will be undermined by this policy. The conversion of commercial buildings to residential may detract from the attractiveness of the individual building and its contribution to the Conservation Area. This could result in a range of detrimental effects, including the attractiveness of centres to visitors, having an impact on tourism and the local economy. Given the difficulties facing town centres, having an attractive environment which is different to other areas to draw people to the centres is of fundamental importance: probably more so now than ever.

TWBC does however welcome the exemption of Listed Buildings from the proposed new PDR in protecting historic buildings from possible inappropriate conversions.

Q2.3: Do you agree that, in conservation areas only, the right should allow for prior approval of the impact of the loss of ground floor use to residential?

Whilst this element of the proposed new PDR is supported, it does not provide protection for the loss of ground floor retail/commercial uses in centres or parts of centres that are not within Conservation Areas. Such uses make a valuable contribution to centres through active frontages, providing interest and activity at the ground floor level which would be lost through conversion to residential use.

TWBC considers that the most appropriate approach is through the use of existing planning regulations, however if the proposed new PDR is brought in, then prior approval for the impact of the loss of ground floor uses to residential should apply to all town and district centre locations, not just those within Conservation Areas, in order to maintain the vitality and viability of centres.

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?

TWBC disagree with the criteria of considerations for prior approval under the proposal. The new proposed PDR misses the opportunity to improve the environment and place-making under its limited scope of considerations, as well as failing to provide a mechanism to secure affordable housing and infrastructure delivery under Section 106. See response to questions 3.2 and 5 for more detail.

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

The proposed development right will not secure appropriate design quality, in terms of internal and external design elements. There are also no provisions related to the sizes, types and tenures of housing. There is also a missed opportunity to improve the overall built environment and general sense of place under their limited scope of considerations.

As planning permission would not be required, there would be no scope to secure affordable housing through conversions to residential by this route. There has been under provision of affordable housing relative to the policy position in Tunbridge Wells through the loss of office space to residential via current Permitted Development Rights, as well as sites justifying a lower provision of affordable housing than the policy requirements through developers on viability grounds. The introduction of the proposed permitted development right would further reduce the ability to secure such affordable housing, at a time when the emerging Local Plan is specifically seeking to boost the amount delivered. The same will apply in many different locations across the country, and the reduced ability to deliver mixed and balanced communities in town centre locations.

Q4.1: Do you agree that the proposed new permitted development right to change use from Commercial, Business and Service (Class E) to residential should attract a fee per dwelling house?

TWBC agree there should be a fee per dwelling house.

Q4.2: If you agree there should be a fee per dwelling house, should this be set at £96 per dwelling house?

TWBC strongly believe that this fee should match the fee of a full planning application. Local authorities will lose money which would otherwise have been funded by full planning applications, impacting on many already stretched planning department resources: in reality the time spent assessing PDR notifications, and explaining to concerned local businesses and residents the differences between a PDR notification and planning application, are equivalent. This may impact upon the overall productivity of the planning departments and their ability to provide an effective and efficient service.

Q5: Do you have any other comments on the proposed right for the change of use from Commercial, Business and Service use class to residential?

TWBC strongly believe that the proposed PDR for the change of use from Use Class E Commercial to C3 Residential would have detrimental implications for the following reasons:

Impacts on the future of town centres and high streets

Town centres and high streets are at the heart of communities and are essential for economic and social recovery. The proposals will undermine the opportunity for town centres and high streets to continue to be thriving, successful locations for local business, culture, and community activities. The proposals could result in disconnected and fragmented high streets, impacting negatively on the overall sense of place and its ability to attract people to visit, work and live in such centres. This may have further economic and social implications. The current system, whereby proposals for conversion of premises are subject to consideration through the full planning application process, when allied to suitable and up-to-date policies, still provides the flexibility to allow those premises within town centres which are no longer required for retail or other uses to change, but does so through a controlled, evidenced base manner.

Inability to deliver affordable housing

The delivery of increased affordable housing is a critical issue, particularly in areas of the South East where high house prices compound affordability issues. The proposals anticipate that affordable housing would be delivered through the new Infrastructure Levy. TWBC expressed its comments on the Infrastructure Levy in response to the consultation on the White Paper in autumn 2020 ([Link to TWBC Response to Planning White Paper](#)). In these comments, TWBC set out that whilst it considers that the Levy could have a role to play in the delivery of affordable housing, the clear preference is for on site provision of affordable housing. Given the generally high land costs in town centres it would potentially be more problematic to deliver affordable housing in these locations through the Levy, meaning that it is located elsewhere. This again would reduce the ability to deliver mixed and balanced communities in town centre locations.

Impact on Local policy making and strategies

The proposed changes undermine the importance of local circumstances, approach and local policy and the role of the Council and local stakeholders, demonstrated in TW as TWBC, Royal Tunbridge Wells Together – the Business Improvement District delivery company for Royal Tunbridge Wells. Many town centres are managed by local authorities and BID's which are successful at the local level by applying local circumstances and initiatives to promote centres and the uses within them.

It is therefore considered that the proposals will undermine adopted and emerging Local Plans, particularly in relation to policies to support the vitality and viability of high streets and town and local centres. TWBC have set out clear policies within the emerging Pre-Submission Local Plan which sets out a commitment for the production of a Town Centre Area Plan for Royal Tunbridge Wells to set the framework and guide development within the centre over the Plan period. It is intended that it will set out a holistic approach to future development within the town which will consider the important role of both commercial and residential uses. Additionally, TWBC is leading on extensive masterplanning work for Paddock Wood including the role and future of the Town Centre and the mix of uses to support the growth proposed in this area. The Paddock Wood Town Council Neighbourhood Plan will also be playing an important role in this

This local approach is, and will be, based on an extensive evidence base and engagement with local stakeholders to inform a vision for the future of the key centres within the borough. The proposals in the current consultation undermine this approach. The proposals also undermine other local policy provision in relation to affordable housing and also quality and sustainability of design.

Impact on borough resources

Local planning authority resources will be impacted by the additional workload which will result from the prior approval applications. The proposed fees are insufficient and should match the fees for a full planning application. TWBC has also commissioned borough-wide retail and leisure studies (at considerable cost and time), which have been used to inform the evidence base for the policies included within its Pre-Submission Local Plan

Ability to secure contributions to infrastructure

The proposals are not supported by a sufficient mechanism to secure appropriate provision for, or to, the infrastructure that is required. TWBC is significantly concerned about the proposed new Infrastructure Levy, particularly in relation to affordable housing.

Q6.1: Do you think that the proposed right for the change of use from the Commercial, Business and Service use class to residential could impact on businesses, communities, or local planning authorities?

TWBC feels very strongly that the proposals as currently drafted would have a significant negative impact on local businesses, centres and communities for the reasons set out above. It is considered that if these proposals are brought in, there would be significant implications for Tunbridge Wells Borough, and Royal Tunbridge Wells town centre in particular as the commercial centre of the borough, as well as the centres of Paddock Wood and Southborough. It will lead to a loss of shops, leisure uses and other commercial premises, changing the nature and fabric of the town centres and wider areas with limited input from

residents, businesses, other organisations and the Council, which would normally occur through the planning application process.

It is considered that the role of local policy and decision making would be undermined by the proposals and that the most appropriate approach would be for local policies to be set within Local Plans and other local strategies and bodies to bring forward appropriate commercial and residential development in the right locations to support local communities. This is already taking place by a number of means, in the case of Tunbridge Wells Borough via the work of the Council Planning and Economic Development departments, working closely with stakeholders including Tunbridge Wells Together, who work hard at the local level. It would appear that there is a disconnect between current government initiatives and funding promoting the revival of High Streets, particularly looking towards post pandemic and the aim of proposed PDR.

Q6.2: Do you think that the proposed right for the change of use from the Commercial, Business and Service use class to residential could give rise to any impacts on people who share a protected characteristic?

Yes, it is considered that the proposed change could impact in several ways on those people who share a protected characteristic, particularly in relation to income, age and disability through largely unrestricted loss of retail and other town centre uses which can provide the breadth of services needed for those with protected characteristics. The lack of a mechanism to secure and deliver affordable housing is also likely to negatively impact people with these protected characteristics.

Part 2 - Supporting public service infrastructure through the planning system

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?

Whilst TWBC supports the expansion of public service infrastructure, particularly taking into account the current difficulties with expanded and adapted services required as a result of Covid 19. However, a 25% increase of the current footprint proposed could be a very large area: those affected locally would not be consulted on expansions should the proposals in

this consultation be brought it. Development of such a scale, could have a very significant impact physically in terms of the footprint of development, but also could have resultant implications in terms of numbers of school students, increased number of hospital patients etc and the resultant impacts of this. For example, increased pressure on highway networks, access, public transport for example, which would not be taken into account.

Additionally, the proposals do not refer to any exemptions to the proposed PDR and it is considered that there are locations where extended provision may not be appropriate – for example in protected areas such as Areas of Outstanding Natural Beauty or within the Green Belt. Such exemptions should be considered when considering this approach.

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

As per our response to question 7 above, it is considered that although the principle this approach would be supported, there may be locations where raising the height limit may not be appropriate, for example within protected landscape areas such as Areas of Outstanding Natural Beauty, within Conservation Areas or in proximity to Listed Buildings. These issues are not currently addressed within the proposals.

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

TWBC is not aware of any such evidence.

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

TWBC's view on this mirrors the response to Q7.2.

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

TWBC has no other comments to make on this element of the consultation.

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 proposed PDR could have a potential negative impact on communities living nearby due to the intensification of uses on a site as per our comments to question 7.1 above

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?

TWBC does not consider that the proposals would give rise to any negative impacts on people who share a protected characteristic. The proposals may in fact lead to positive impacts in relation to the improvements and/ or expansion of public service infrastructure to all groups.

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?

TWBC has no specific comment to make on this question.

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?

TWBC has no specific comment to make on this question.

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)?

TWBC agrees that the new public service application process should only apply to major development, due to the resource implications and time taken to deal with such applications in a timely way.

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?

If not, please give your reasons as well as any suggested alternatives.

TWBC considers that this list adequately reflects the type of public service infrastructure that could be included for within this provision.

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

Although TWBC seeks to determine all planning applications in a timely way, it considers that due to the complexity of such applications, a determination process of 10 weeks is not a realistic timeframe to deal with the issues that are likely to be raised and often protracted consideration and negotiation required.

Additionally, to deal with these applications within a reduced timeframe would essentially mean that planning authorities would need to prioritise these applications over other major applications, which may have as much importance locally or conflict with other government priorities such as the provision of housing.

Meeting such targets may also require dedicated staff to work on these applications which would have implications for already stretched planning departments. At a time when Local Authorities are seeking quality proposals and decision making, this proposal contradicts this ambition, through the fast tracking of such applications to the detriment of effective collaboration and negotiation to reach desired outcomes.

TWBC would question the rationale for this proposal and whether it would be achievable in practice or reduce the time significantly for such projects to be delivered.

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

TWBC does not consider that this is appropriate or achievable to gain comments from consultees on such projects within the proposed 14 days as opposed to the current 21. This is a significant decrease in time for projects that are often complex and large in scale and consultees need adequate time to consider the implications. This reduced timeframe for comments would be less than is in place for comments for minor planning applications such as householder extensions.

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?

For the purposes of transparency, TWBC would not raise any concerns with regards to notifying the Secretary of State of such proposals, however would question the need and the resource implications of doing so

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?

This approach is supported, as TWBC already takes a pro-active approach and actively engages with all applicants and stakeholders through the pre-application process on the vast majority of proposals, not just for those related to public service infrastructure.

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?

TWBC has no specific comment to make on this question.

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

TWBC considers that there are other ways in which the planning system could speed up the process – this could include having standardised conditions and a template for section 106 agreements for such developments.

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?

It is not considered that the proposals would have any negative impacts on people who share a protected characteristic.

Part 3 - Consolidation and simplification of existing permitted development rights

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?

TWBC has no specific comment to make on this question

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

TWBC has no specific comment to make on this question

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?

TWBC has no specific comment to make on this question

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

TWBC has no specific comment to make on this question

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

TWBC has no other comments on the consolidation and simplification of existing permitted development rights.