

## **Fairford Town Council Response to Consultation on Planning Reform: Supporting the high street and increasing the delivery of new homes**

### **Part 1: Permitted development rights and use classes**

#### **General Comments**

Fairford Town Council welcomes the opportunity to comment on these proposals, with much recent experience of how these things work (or don't) in practice for a small town and potentially impact on its sustainability.

Permitted Development Rights (PDRs) were introduced to deal with an over-bureaucratic approach to planning and petty restrictions on normal and reasonable development – a tolerant liberal and noble idea in itself. However, regrettably, there are indications that their extension is now being used as a means to reduce the workload on local planning authorities instead of resourcing the latter adequately to perform their statutory functions effectively and ensure that the objectives of the National Planning Policy Framework, particularly with regard to the conservation of heritage and the sustainability of smaller town centres, are met. This seems to be going in the opposite direction to the approach recommended by 'Grimsey 2' (2018), involving the setting up of individual Town Centre Commissions and the development and implementation of business plans for each place.

The problem with PDRs is that, whilst the reduction of petty restrictions is quite reasonable in many circumstances, they inevitably set a new, lower threshold where some people push at the boundaries - which creates work for the bureaucracy, which then looks again to relax the rules further – and so on.

The application of general PDRs also means that there is implicitly the same treatment between very different places and situations, whether that relates to conservation, amenities or the local economy. PDRs make a lowest common denominator of protection the norm; change them across the board and in sensitive situations and you may end up with the reverse of your objectives.

Many smaller centres which service important local needs are already at or below a 'critical mass' threshold to remain viable. In a place where there is not enough of something we need to encourage, and for whatever reason essential local retail capacity or employment is under pressure (as it is with us) from rents, rates, inadequate footfall or effective subsidisation of housing, the PDRs can easily distort the likelihood of a change of use in favour of something which undermines local needs, in a way that may effectively be irreversible and over which the community has no control.

For example: A modern office block outside the town in an 'established employment site' supposedly protected under a policy of the new Local Plan, which could have been valuable for expanding local businesses, has recently been lost to a residential conversion through PDR (Cotswold District Council Planning ref. 17/04958/OPANOT).

PDRs already override many restrictions in Conservation Areas and within the settings of heritage assets. This can have a major impact on their character and economic/social value, and hence the vitality/viability of local centres.

For example: (1) Addition of rooflights under PDR on modern style houses permitted on appeal adjacent to a non-designated heritage asset adjacent to a sensitive landscape area within the Fairford conservation area (CDC Planning ref 14/04583/FUL); (2) Changes to windows and doors on the principal frontage of a house forming part of a group with listed buildings in the most sensitive part of the Fairford conservation area (CDC Planning ref. 18/01867/LBC) – Although the proposed changes to a door hood and surround were ruled to be outwith PDR, detrimental changes to the door and windows themselves, affecting the frontage as a whole and the setting of nearby listed buildings, would not have been. The potential for addition of solar panels under PDR on front roofs of non-listed buildings within this and other sensitive parts of the conservation area also needs consideration.

Article 4 directions (A4Ds) offer a way to overcome this problem if circumstances require, but the current guidance on the use of these (NPPF paragraph 53 and PPG ref 13-038-20140306) “The use of article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area” is being interpreted as quite restrictive, as well as being relatively costly to implement, making local authorities reluctant to use them. This guidance needs to be clarified to make clear, in particular, that it covers situations where the development would have an undesirable impact on:

- 1) the vitality and viability of a town centre;
- 2) the availability of space for local employment, where this has been identified as a need;  
or
- 3) the character of the relevant part of a conservation area or a listed building [or non-designated heritage asset (local heritage asset)] and/or its setting.

Moreover, if new PDRs are to be introduced which could result in harm to specific conservation areas etc., adequate time (and resourcing) needs to be allowed for identification of such issues and implementation of A4Ds to restrict these PDRs in these locations.

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

We are proposing new permitted development rights to allow existing premises in typical high street uses to change to a wider range of uses, allowing more leisure and community uses such as gyms, libraries, health care and office use as well as homes. We also want to support the modernisation of the high street and enable businesses to adapt to changes in consumer demands. We are consulting on changes to use classes for uses commonly found on the high street to make it easier for certain uses to change use.

- Small centres which have been subject to loss of shops etc need support to remain viable
- We have a mixture of classes A1, A2, A3, A4, A5, B1, B2, B8, C1, C2, C3, D1 and sui generis. Most of these (especially A1, A2, A3, C1, D1) contribute to the viability of the centre and help to maintain footfall. B1, B2 around the town may also contribute indirectly. PDR for changes away from these uses are therefore unhelpful.
- The problem is the opposite to that generally applying in larger centres
- How to define the type of controls/relaxations which are appropriate in a particular area?
- How to ensure a viable mix? (cannot be achieved by free market and PDR alone)

**Question 1.1:** 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.

- Shops, financial and professional services No – Our town centre already has insufficient space to effectively provide ‘critical mass’ for attracting footfall. The total size of the ‘retail’ offering is important in its own right.
- Offices may potentially provide new customers but do not contribute to the offering attracting footfall
- Hot food takeaways Yes? – They provide a useful service to the local community (although arguably impacting local pubs/restaurants); offices could possibly make a more positive contribution to footfall for the retail businesses.
- Betting shops, pay day load shops and launderettes No view – We don’t have any.

**Question 1.2:** 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.

- No - Takeaways often seen as negative, but may provide a useful (and wanted) service to the local community.
- Premises requiring professional cooking facilities may be difficult to replace once converted to residential.

**Question 1.3:** Are there any specific matters that should be considered for prior approval to change to office use?

- The mix and ‘critical mass’ of services in the centre, and the balance with other uses;
- The importance of the existing service(s) to the local community;
- Availability of sustainable transport to enable local residents to access services elsewhere conveniently;
- Availability/provision of parking;
- ‘Prior approval’ may not be an appropriate process if the change causes a problem in principle.

**Question 1.4:** 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?

- Provided that the loss of the existing services does not detract critically from the retail/service offering in the centre. These services do not contribute in the same way to the viability of the centre. Also, they may create additional burdens on parking etc.

**Question 1.5:** Are there other community uses to which temporary change of use should be allowed?

[Out of: crèches, day nurseries, day centres, art galleries (other than for sale or hire), halls, non residential education and training centres, Cinemas, theatres, music and concert halls, bingo and dance halls (but not night clubs), skating rinks, gymnasiums or area for indoor or outdoor sports and recreations]

- The effect will vary between centres;
- For small centres struggling to retain viability of a local retail provision, a key criterion should be likely contribution to retail/commercial footfall in the centre.
- The constraints on continuing with the temporary use and reverting to the previous use will be critical. You don't want to deter good initiatives by making them too time-limited or creating problems for the landlords subsequently re-letting.

**Question 1.6:** Do you agree that the temporary change of use should be extended from 2 years to 3 years?

- What is the evidence to support this? Lease terms and flexibility in these would seem to be more important.
- (As answer to previous question) The constraints on continuing with the temporary use and reverting to the previous use will be critical.
- Should this be renewable?

1.11 The Use Classes Order must remain current for the modern high street. The A1 use class captures commonly found shops on the high street. However, we wish to explore whether we could simplify the A1 shops use class to remove the current named uses and allow for a broader definition of uses for the sale, display or service to visiting members of the public. We would welcome views on how the A1 use class could be simplified to ensure that it accommodates new and future business models and modern shopping preferences.

1.12 We could go further. Premises on the high street are often in more than one use, for example a bookshop and café, which allows them to attract a wider range of customers. There could be scope for a new use class that provides for a mix of uses within the A1, A2 and A3 uses beyond that which is considered to be ancillary, which would support the diversification of high street businesses. This would replace the existing A1, A2 and A3 and result in a single use class to cover shops, financial and professional services, restaurants and cafes. This would mean that movement between these uses was no longer development and not a matter for the planning system to consider. It would bring greater flexibility but reduce the ability of communities and local planning authorities to distinguish between shops and restaurant uses. We would be interested in views on merging these use classes, and also on whether any other use class should be brought into the proposed merged use class.

**Question 1.7:** Would changes to certain of the A use classes be helpful in supporting high streets?

- A more flexible definition of retail services may be useful; [This could potentially include things such as an 'Amazon collect' service, which would attract footfall through on-line purchases that might not otherwise be available in the centre(?)]

**Question 1.8:** 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 is preferable. There are dangers in b as all 3 elements, A1, A2 and A3 and the balance between them are important, particularly in small centres where one element could quickly reduce to a level where it no longer has 'critical mass' and this then also affects the others.

### **Allow certain building types in particular uses to extend upwards to create additional new homes**

We propose a new permitted development right to extend certain existing buildings upwards to provide additional, well designed, new homes to meet local housing need. National planning policy is clear that to support housing delivery we should make effective use of previously developed land and buildings, including the airspace above existing buildings, to create new homes. This proposal is to create much needed additional new homes which fit within the existing streetscape and can enhance the local area.

- Impact on landscape and character of the area;
- Needs to be restricted in Conservation areas and subject to assessment of impact on heritage assets and their settings;
- Also Building Regulations and potential safety issue.

**Question 1.9:** Do you think there is a role for a permitted development right to provide additional self-contained homes by extending certain premises upwards?

- This needs to be controlled in conservation areas and in respect of the impact on listed buildings and their settings;
- Some planning authorities are reluctant and slow to react to changes in PDR which can cause significant harm to heritage assets and their settings;
- This may also impact the character of local areas more generally, particularly where there are wider landscape considerations (e.g. in/adjacent to AONB and other valued landscapes);
- New guidance needs to be given on the process for article 4 directions, and sufficient time needs to be allowed for the implementation of this before such PDR come into effect;
- Building Regulations and safety considerations also need to be taken into account. There should be no permitted development right unless it can be demonstrated that the original building design catered for such extension, and this should be the subject of proper technical assessment. We are not talking about Lego here!

**Question 1.10:** Do you think there is a role for local design codes to improve outcomes from the application of the proposed right?

- Local design codes could potentially help in deciding, as part of a planning application or prior approval process, whether a proposed development is acceptable in a given situation. However, they would not in themselves have legal force unless this was written into the criteria of the permitted development right.

**Question 1.11:** 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?
  - Both options would require more detailed definition (including to address varying ground levels).
  - This proposed PDR should not apply in conservation areas or where it may impact listed buildings, their settings or locally important landscapes.
  - Just because one building in a row/street/terrace is higher, this does not justify others being raised to the same height.

**Question 1.12:** Do you agree that there should be an overall limit of no more than 5 storeys above ground level once extended?

- This limit seems entirely arbitrary and would be completely inappropriate where, for example, the building is close to others of only 1 or 2 storeys.
- There will be issues of safety if the foundations were not originally designed for a taller building.
- Taller buildings are also known to give rise to issues of wind funnelling, although this is generally only a serious issue with very tall buildings. This may be a significant safety issue for pedestrians, particularly elderly.

**Question 1.13:** How do you think a permitted development right should address the impact where the ground is not level?

- It shouldn't. This is best addressed through the normal planning application process.

**Question 1.14:** 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?

- Building Regulations and safety considerations also need to be taken into account. There will be issues of safety if the foundations were not originally designed for a taller building. There should be no permitted development right unless it can be demonstrated that the original building design catered for such extension, and this should be the subject of proper technical assessment. We are not talking about Lego here!
- If you are going to ask questions like this you should employ more properly qualified civil engineers.

**Question 1.15:** 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

**Question 1.16:** 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?

- No

**Question 1.17:** Do you agree that a permitted development right should allow the local authority to consider the extent of the works proposed?

- Yes. However, we question whether our local authority currently has the resources and expertise to do this. It is important that assessment of matters such as Building

Regulations and Fire Safety compliance is not just left to applicants, to ensure that public safety is not endangered.

**Question 1.18:** 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?

- It is unclear to us what the advantage of this would be over the existing building regulations and planning application processes. The latter allows the interests of all local stakeholders, as well as natural and historic environment, to be considered. This is fundamental to Localism.

**Question 1.19:** Are there any other planning matters that should be considered?

- Everything else that is covered by the normal planning application process. Basically, extending a home upwards is equivalent to any other extension that is outside the limits of permitted development, with the added considerations of structural soundness (including potential impact on nearby buildings), increased landscape/visual impact/overbearing and fire safety being potentially more critical.

**Question 1.20:** 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?

- The same considerations should apply as above. We have already had enough problems with buildings that are too tall and of inappropriate design being built too close to heritage assets and affecting their settings, exacerbated by the application of permitted development rights for additional skylights etc.

### **Remove the existing right that allows the installation of, and advertising on, new public call boxes**

Permitted development rights initially played an important role in helping to provide public access to a telephone. The widespread use of mobile technology has changed the way people access telephone services and use public call boxes. Therefore, the placing of public call boxes would now benefit from the greater consideration of their impact on the local amenity. Any adverts on new public call boxes would similarly be subject to local consideration.

**Question 1.21:** Do you agree that the permitted development right for public call boxes (telephone kiosks) should be removed?

- Yes. [Among other things, this will prevent the installation of inappropriate designs in conservation areas.]

**Question 1.22:** 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. However, it may be appropriate to allow simple notices indicating that important facilities such as defibrillators are installed in these, through the prior approval process. These should be subject to appropriate conditions and limitation and appropriate to the character of the area.

### **Increased size limits for off-street electric vehicle charging points**

The Government's commitment is that by 2050 nearly all cars and vans should be zero emission vehicles. To support its delivery we propose to increase the existing size limits for electric vehicle charging points located in off-street parking areas to facilitate rapid charging.

**Question 1.23:** 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?

- ? [This could have an effect on accessibility for disabled people.]

### **Make permanent two time-limited rights**

We propose to make permanent two time-limited permitted development rights that will currently cease to have effect in 2019. These provide for the change of use from storage or distribution to residential use, and for larger single storey rear extensions to houses.

**Question 1.24:** Do you agree that the existing time-limited permitted development right for change of use from storage or distribution to residential is made permanent?

- No

**Question 1.25:** Do you agree that the time-limited permitted development right for larger extensions to dwellinghouses is made permanent?

- No. We believe this is having a significant effect on the robustness of drainage calculations for the design of rain/surface water drainage systems, and the feasibility of on-site soak-away drainage, in areas where surface water drainage is already an issue. If this PDR is made permanent it may lead to more serious problems.

**Question 1.26:** Do you agree that a fee should be charged for a prior approval application for a larger extension to a dwellinghouse?

- Yes if this PDR is to be continued, although we don't agree that this should be the case for reasons given above. We believe this is necessary in order to ensure that the assessment and approval processes of local authorities are adequately resourced.

### **Explore the feasibility of a new right to allow for the demolition of existing commercial buildings and their redevelopment as residential**

The National Planning Policy Framework<sup>4</sup> is clear that making effective use of land and buildings is central to boosting housing delivery. Therefore we are seeking views on whether it would be feasible for a permitted development right to be designed that could allow for the redevelopment of a commercial site to create new homes.

**Question 1.27:** 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. Any large development such as this in an area such as ours is likely to affect the local community, whether this is through impacts on traffic, local services, amenity and/or landscape/environment, and therefore it is appropriate that it should be considered through the normal planning process, not just prior approval by the local authority, who may have different interests. This is fundamental to the principle of Localism.



**Question 1.28:** 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?

- Whether this is the most important objective will depend entirely on the circumstances. It makes no sense to make this the priority where there is already too much housing relative to employment in a given location. This simply leads to loss of employment, increased out-commuting, with the environmental impacts that involves, and reduces the viability of local services – the antithesis of sustainability. It would be much more appropriate to make this the subject of a local master plan where it may be appropriate, and consider this properly through the planning process.

**Question 1.29:** 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

- Danger that this will have undesirable unintended consequences in smaller centres

ii. Introducing a new right to extend existing buildings upwards to create additional new homes

- Potential problems of structural stability with impacts on adjacent/nearby buildings and public safety
- Potential fire safety issues

iii. Removing permitted development rights and advertisement consent in respect of public call boxes (telephone kiosks).

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iv. Increasing the height limits for electric vehicle charging points in off-street parking spaces

- Potential impact on accessibility for disabled people

v. Making permanent the right for the change of use from storage to residential

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vi. Making permanent the right for larger extensions to dwellinghouses

- Potential impact on surface water run-off and drainage in areas where this is already a problem

**Question 1.30:** 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?

- Potential impact of loss of local services on elderly people with poor access to transport
- We have questionnaire response data on use of local shops and community facilities

#### **Other comments in relation to Permitted Development Rights**

- The application of certain permitted development rights in relation to conservation areas, listed buildings and their settings is already a problem. We would urge the Government to consider restricting these (generically) in such situations. For example:
  - Changes to windows and doors on residential buildings which are not to equivalent traditional type of similar appearance [and materials], particularly where these are mainly appreciated from a close distance, e.g. from a street pavement;
  - Installation of additional rooflights or dormers which detract from the ‘clean’ appearance of a key roofscape;
  - Changes to buildings which form part of a group including listed buildings within a conservation area

- The current guidance suggesting that PDRs should only be restricted through Article 4 Directions “in exceptional circumstances” needs to be clarified to make clear that such “exceptional circumstances” include where the development would have an undesirable impact on:
  - 4) the character of the relevant part of a conservation area or a listed building [or non-designated heritage asset (local heritage asset)] and/or its setting;
  - 5) the vitality and viability of a town centre; or
  - 6) the availability of space for local employment, where this has been identified as a need.

Part 2 – No comments

Part 3 – No comments

Part 4 – No comments