

Part A

Report to: Cabinet

Date of meeting: Monday, 18 January 2021

Report author: Interim Head of Planning and Building Control

Title: Proposed Permitted Development Rights – Consultation Response

1.0 Summary

1.1 On the 3 December 2020, the Government published a public consultation on 'Supporting housing delivery and public service infrastructure'. This included proposals to introduce further permitted development rights to allow changes of use from a wide range of commercial, business and service uses to residential use without planning permission. The proposals are being consulted upon until 28 January 2020.

1.2 This report seeks approval from Cabinet to issue the draft response set out in Appendix A to the consultation proposals.

2.0 Risks

2.1

Nature of risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate or transfer)	Risk Rating (combination of severity and likelihood)
The proposed reforms are implemented as planned	Negative impact on the town centre, employment areas and local economy	Issue robust response to the consultation	treat	3x3 = 9

3.0 Recommendations

3.1 That Cabinet approve the draft consultation response, set out in Appendix A, for issue to the Secretary of State

3.2 That Cabinet delegates authority to the Portfolio Holder for Regeneration and Development to approve any minor amendments that may be required

Further information:

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Report approved by: Tom Dobrashian, Group Head of Place

4.0 Detailed proposal

- 4.1 In August 2020, the Government published the 'Planning for the Future' White Paper which set out their intention to undertake the most radical reform of the current planning system since it was first created in 1947. The White Paper set out, for consultation, a number of significant recommendations for reform which the Government intend to progress over the longer term. However, alongside these longer term reforms the Government are also working on a number of shorter term measures as a precursor to the expected wider reforms of the planning system.
- 4.2 In September 2020 the Government implemented substantial reforms to the Town and Country Planning (Use Classes) Order 1987, as amended (the 'UCO'). In England, the UCO is a legislative tool which seeks to define, and sometimes group together, similar types of uses into Use Classes. Changes of use within the same Use Class are not considered to be development and do not require planning permission. Changes of use between different Use Classes require planning permission unless they are permitted by other legislation, often referred to as permitted development rights. The reforms implemented by the Government involved bringing together a wide range of commercial, business and service uses from separate Use Classes into a single Use Class, Class E. Class E now encompasses retail, restaurants, offices, nurseries, healthcare, light industrial and other commercial uses meaning that changing between these uses was no longer considered development for planning purposes.
- 4.3 Permitted Development Rights (PDR) are set nationally in the Town and Country Planning (General Permitted Development) Order 1995, as amended (the 'GPDO') and have the effect of granting planning permission, often conditionally, for prescribed types of development without the need for a specific planning application. Historically, PDR were often used to permit small scale or minor development and changes of use but in recent years have been reformed to permit more substantial forms of development include the redevelopment of vacant buildings or upwards extensions to provide new homes. Permitted development rights to create new homes are normally subject to a condition that prior to construction an application for the prior approval of the council must first be submitted and approved. The GPDO specify the matters which the council can consider in determining whether to issue or refuse prior approval.
- 4.4 Where an local authority considers that there is a clear justification that a particular PDR would cause specific harm to local amenity or the proper planning of its area it

can seek to introduce an Article 4 Direction (A4D) which has the effect of removing that PDR, often over a specified area, so that a planning application is required for the specified form of development. Watford have a number of existing A4D in place, in Conservation Areas but also in some employment areas to remove the existing PDR that permit a change of use from offices to residential.

- 4.5 The GPDO has not yet been amended to reflect the reforms to the UCO and therefore does not yet refer to Class E. This creates a disconnect with the existing PDR in the GPDO relating to change of use. To temporarily address this, transitional arrangements have been put in place until 31 July 2021 to continue to enact PDR as if the Use Classes Order had not been amended.
- 4.6 On 3 December 2020, the government published proposals for consultation which included updates to the GPDO to take account of reforms to the UCO and the introduction of Class E. However, these reforms do not simply seek to transfer across existing PDR but also introduce a new PDR which would permit changes of use from all Class E uses to residential.
- 4.7 Existing PDR already allow some specific commercial, business and service uses now within Class E, such as retail and offices, to change use to residential but under the current proposals there are some very noticeable differences.
- 4.8 Firstly, the Government do not propose to introduce a size limit to the use of this new PDR. Under current PDR some changes of use are subject to size limitations, such as retail to residential which only applies up to 150sqm of floorspace.
- 4.9 Secondly, under the matters for prior approval the Government are not proposing to allow the council to have consideration for local land use or policy designations. For example, currently the PDR that allow change of use from retail to residential allow the council to consider whether the property is in a key shopping area and the impact on that shopping area. This allowed the council to resist inappropriate changes of use where they may be considered to harm the vitality or viability of the town centre.
- 4.10 The proposals, should they be carried forward in their current form, would have two main implications for Watford.
- 4.11 Firstly, the proposed PDR could see the unplanned introduction of residential uses into the town centre. The new Local Plan is broadly supportive of introducing more high quality residential accommodation into the town centre but primarily away from or above the main High Street frontage and other key shopping frontages. Residential values are typically much higher than retail values which could place further pressures on retail rents but also see landlords moving on retail occupiers to make way for residential uses. The proposed reforms could result in a reduction of available retail space in the most attractive or accessible locations or a more

fragmented High Street where residential and other town centre uses are inter-dispersed at ground floor level, creating areas of inactive frontage.

- 4.12 Secondly, unless further transitional arrangements are put in place, Watford's existing A4D which remove PDR that permit office to residential conversions may no longer have effect as they refer to the former office Use Class B1a which no longer exists. This could see important employment areas such as Clarendon Road come under huge pressure from developers seeking to replace offices with residential development. Clearly, the future of the office market post-Covid is uncertain but this could potentially have a significantly negative impact on the employment offer and the economy of the town.
- 4.13 There are also potentially a number of other local impacts as a result of the proposed PDR. These include the availability of shops and services, childcare and healthcare facilities locally which could in turn increase the need for residents to travel further to access amenities and services, resulting in more congestion on the road network.
- 4.14 The draft response at Appendix A seeks to draw together and articulate the councils views on the proposed PDR, addressing the concerns set out in this report and other issues that it may cause in terms of the proper planning of the town.

5.0 **Implications**

5.1 **Financial**

- 5.1.1 The Shared Director of Finance comments that there are no financial implications arising at this stage.

5.2 **Legal Issues (Monitoring Officer)**

- 5.2.1 The Group Head of Democracy and Governance comments that the legal implications are contained within this report. If the proposals are enacted as is, it is likely that existing Article 4 Directions the council has in place removing PD rights for conversion from office to residential will no longer be valid and the council will need to consider whether to issue new Article 4 Directions. Depending on whether they are to be implemented immediately or not could raise the prospect of potential compensation claims from land owners. With an immediate Direction should the land owner subsequently be refused planning permission for the conversion within the first 12 months of the life of an immediate Direction where they would otherwise have been able to rely on PD approval they are able to claim compensation from the refusing local planning authority.

5.3 **Equalities, Human Rights and Data Protection**

5.3.1 Under s149 (1) of the Equality Act the council must have due regard, in the exercise of its functions, to the need to –

- eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act
- advance equality of opportunity between persons who share relevant protected characteristics and persons who do not share them
- foster good relations between persons who share relevant protected characteristics and persons who do not share them.

The public consultation is being undertaken by the Ministry of Housing, Community and Local Government (MHCLG). MHCLG will be required to prepare a Public Sector Equality Duty Assessment and an impact assessment reflecting the detail of any changes arising as a result of the consultation to be made prior to any secondary legislation being laid.

Having had regard to the council's obligations under s149, it is considered that in responding to the public consultation there are no equalities implications for the Council to consider.

5.4 **Staffing**

5.4.1 There are no staffing implications associated with responding to the consultation.

5.5 **Accommodation**

5.5.1 There are no staffing implications associated with responding to the consultation.

5.6 **Community Safety/Crime and Disorder**

5.6.1 There are no community safety/crime and disorder implications associated with responding to the consultation.

5.7 **Sustainability**

5.7.1 There are no direct sustainability implications associated with responding to the consultation. However, the response to the consultation is intended to support the sustainable development of Watford in the future.

Appendices

- Appendix A – Draft Consultation Response (to follow)

Background papers

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

- Supporting housing delivery and public sector infrastructure, MHCLG, 3 December 2020