

RESPONSE TO SUPPORTING HOUSING DELIVERY AND PUBLIC SERVICE INFRASTRUCTURE (NATIONAL PLANNING CONSULTATION)

Cabinet Member(s)	Councillor Eddie Lavery
Cabinet Portfolio(s)	Cabinet Member for Environment, Housing & Regeneration
Officer Contact(s)	Tom Campbell and Julia Johnson, Planning Policy
Papers with report	Appendix 1 – Submitted Response to Supporting Housing Delivery and Public Service Infrastructure

HEADLINES

Summary	<p>This Cabinet report provides a summary of the Government's recent planning consultation. It proposes a new permitted development right to change use from commercial, business and service use (Use Class E) to residential (Use Class C3). These have potentially significant implications for the Borough's town centres, business and commercial areas. It also proposes an approach to consolidating the number of existing permitted development rights following recent changes to the Use Class Order, as well as new measures to reduce the role of the planning system in providing new public service infrastructure. A response has already been submitted to the consultation agreed by the Cabinet Member, which closed on 28 January 2021 (see Appendix 1). A summary of this response is included in this report alongside the proposed changes.</p>
Putting our Residents First	<p>This report supports the following Council objectives of: <i>Our People; Our Natural Environment; Our Built Environment</i>.</p> <p>The proposed changes would also have an impact on the implementation and review of the Council's Development Plan.</p>
Financial Cost	<p>There are no direct financial implications arising from the recommendations to this report.</p>
Relevant Policy Overview Committee	<p>Residents', Education and Environmental Services.</p>
Relevant Ward(s)	<p>All Wards.</p>

RECOMMENDATION

That the Cabinet notes the content of the ‘Supporting Housing Delivery and Public Service Infrastructure (National Consultation)’ and endorses the Council’s submitted response, which is attached at Appendix 1 of this report.

Reasons for recommendation

The consultation is proposing further changes to the planning system which could have an impact on both public service infrastructure delivery and commercial, business and service users. If implemented, these changes could have significant implications for town planning in Hillingdon. Therefore, it is important that the Council expresses its views on the proposals and influences if or how these changes come forward.

Alternative options considered / risk management

To not submit a consultation response. This was discounted because it was deemed important to present the impacts on Hillingdon’s residents, businesses, and other service users to the government, so that they can take these into account before the changes to the current planning system are agreed.

Democratic compliance / previous authority

Responses to key central government consultations ordinarily require Cabinet approval. However, the consultation deadline was 28 January 2021 and, therefore, it was not practical for this decision to be made by Cabinet in time. In such circumstances, the Cabinet Scheme of Delegations enables the Cabinet Member to informally sign-off such responses, reporting back to Members. Therefore, endorsement of the submitted response is being sought through this Cabinet report.

Policy Overview Committee comments

None at this stage.

SUPPORTING INFORMATION

Background

The Government has separately committed to a significant reform of the planning system. This consultation sets out the latest of several more immediate changes to the existing planning system, which have included:

- The introduction of a series of new permitted development rights (PDRs) intended to allow for the creation of additional residential space or houses, either as upward extensions or through the replacement of vacant buildings, without the need to apply for a full planning application. This new legislation was laid before parliament on 21st July 2020 and the rights were implemented on the 1st September 2020. The Council approved a set of non-

immediate Article 4 notices to remove these permitted development rights in the Borough's key industrial areas which are due for implementation from October 2021.

- The revisions to the Use Class Order on 1st September 2020. This amalgamated many of the existing use class orders into fewer use classes, allowing greater freedom to change the use of buildings without planning permission.
- A consultation titled 'Changes to the Current Planning System'. This included proposed changes to the standard method for assessing local housing need, details around a new type of affordable housing called 'First Homes' and temporarily lifting the requirement for smaller sites to provide affordable housing. The Government is currently working through the consultation responses to this document and have already indicated that there will be significant changes to these initial proposals, including changing the initial proposals to the standard method for assessing local housing need. Hillingdon Council submitted its response to this consultation and officers can provide further details when they are formalised.

In addition to these changes to the current system, the Government published its Planning White Paper in August 2020, which proposed 'radical reform' to the planning system through 24 new proposals. The Government is currently working through the consultation responses to this document, which includes the one submitted by Hillingdon Council. The implementation of such proposals requires primary and secondary legislation and therefore it would take at least a couple of years before any of these proposals are passed.

The Government's most recent consultation, which is the subject of the remainder of this report, proposes three further changes to the current planning system, which are envisaged to come into force on 31 July 2021. These changes are outlined in three parts:

1. A new national permitted development right for the change of use from the Commercial, Business and Service Use Class (E) to Residential (C3).
2. Supporting public service infrastructure through the planning system, which includes a more significant permitted development right and a faster decision-making process for schemes that require full planning permission.
3. Consolidation of the number of existing permitted development rights, to bring them into line with the change to the Use Class Order already made on 1 September 2020.

Part 1 – Use Class E to C3 Permitted Development Right (PDR)

The new Use Class Order implemented on the 1 September 2020 amalgamated all the following uses class into one new Use Class E:

- (a) for the display or retail sale of goods, other than hot food, principally to visiting members of the public (**Formerly Use Class A1 - in effect most retailers**).
- (b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises, (**Formerly Use Class A3**).

(c) for the provision of the following kinds of services principally to visiting members of the public -

- (i) financial services,
- (ii) professional services (other than health or medical services), or
- (iii) any other services which it is appropriate to provide in a commercial, business or service locality, **(All Formerly Use Class A2)**.

(d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public, **(All Formerly Use Class D2)**.

(e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner, **(All Formerly Use Class D1)**.

(f) for a creche, day nursery or day centre, not including a residential use, principally to visiting members of the public, **(All Formerly Use Class D1)**.

(g) for—

- (i) an office to carry out any operational or administrative functions,
- (ii) the research and development of products or processes, or
- (iii) any industrial process,

being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. **(All Formerly Use Class B1)**.

A change of use can now occur between any of these uses without the need to engage with the planning system. The consultation proposes that all of these uses should also be able to change to new residential units (C3) via a new PDR. The consultation proposes that this PDR would be applicable to buildings of all sizes and to all areas of the Borough.

As with the existing commercial to residential PDRs, the matters that the Council would be allowed to consider through the prior approval process would be limited to the following:

- Flood risk;
- Contamination risk;
- Transport and highways impacts;
- The provision of adequate natural light in all habitable rooms;
- Noise impacts from existing commercial premises;
- Fire Safety; and
- The impact on area important for heavy industry and waste management.

Summary of Response

The Council's response outlines that the Council recognises the proposed purpose of the new permitted development right (PDR), but does not agree with all the proposals in their current

format. It outlines that the introduction of this new PDR and its proposed application to all Class E uses in all parts of the Borough has the potential to limit the Council's ability to strategically plan land uses and growth.

There is a concern that this PDR may lead to the displacement of otherwise viable businesses from core areas of the town centre. The loss of individual units could also have a cumulative effect on the sustainability of the commercial area. The loss of each individual shop, office or business will further reduce footfall for the remaining units and potentially erode the overall attraction of the town centre. GP surgeries, dentists and nurseries are all particularly important and valuable uses to local communities that are also at risk of being lost or displaced.

From a design perspective, the loss of high street frontage and replacement with habitable private rooms is undesirable. There are further practical issues with regards to waste collection, deliveries, parking and potential anti-social behaviour from introducing new ground floor residential units in the middle of the high street. For example, residential waste being left for collection on the high street or the introduction of conflicting adjacent ground floor uses, such as a late-night bar and a new flat occupied by a family.

The response highlights that the new requirement for homes delivered through PDR to meet minimum national space standards is welcomed, but several other issues still exist with housing delivered through PDRs. These issues include the absence of affordable housing, infrastructure contributions, poor access to amenity space, poor outlook, single aspect units and their location in inappropriate areas (including industrial areas).

It also outlines that there may be some equality implications that result from this proposed PDR. In particular, the potential loss of local shops and health facilities will have a disproportionate impact on elderly people and people with mobility issues. The homes provided will also not be required to provide any accessible dwellings or wheelchair user dwellings.

The response highlights that the Council does not support this PDR in its current format and would like to see the amendments. It suggests a refinement in the approach to ensure that a core area of a town centre or retail area can be excluded. It also proposes a size limit on buildings that qualify for this PDR, which is limited to those defined nationally as minor housing developments. This would ensure major sites are fully considered under the development plan and in the context of economic, environmental and social objectives. Furthermore, the PDR should not apply on the ground floor of conservation areas, where maintaining an active shop frontage may be particularly critical to the heritage asset. It is suggested that the proposed conditions for the prior approval process should include all of those within the existing PDR regime.

Part 2 – Supporting public service infrastructure through the planning system

The consultation is also proposing a significant amendment to the PDR which allows hospitals, schools and other educational establishments to expand without the need for a planning application. The current PDR is limited to no more than 25% of the gross floorspace of the original buildings with a maximum cap of 250 square metres, whichever is the lesser. It also restricts the height of new buildings to 5 metres.

However, the new proposed amendment would increase the limit 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 that the height limit is raised from 5m to 6m, excluding plant on the roof, except where it is within 10 metres of the boundary or curtilage. To put this into perspective, the current buildings on Hillingdon Hospital are estimated to amount to 55,000 sqm. Under the new amended right, that would theoretically allow for 13,750 sqm of two storey extensions to be added onto the site without any requirement for planning permission or prior approval.

The consultation is also proposing a revised development management procedure for major development (1,000 sqm or a site area \geq 1ha) for the following uses:

- hospitals
- schools and further education colleges
- prisons, young offenders' institutions, and other criminal justice accommodation

It is proposing that such development should be prioritised over other major planning applications, with the statutory timetable for determining these applications being reduced from 13 weeks to 10 weeks. The minimum 21-day consultation period would be reduced to 14 days for both statutory consultees and the local community to provide their comments.

Summary of Response

The Council's response outlines that the Council does not support this amendment to the existing PDR. The removal of the cap could theoretically allow for a large quantum of development to take place without scrutiny into basic planning considerations, such as design, transport and environmental implications. This could harm the local amenity of those who live and work near to schools, colleges, universities and hospitals.

Furthermore, the response outlines that many existing buildings are located within or adjacent to the Green Belt. The absence of any restrictions relating to the Green Belt within the PDR is contrary to the Government's existing commitments to protecting the Green Belt and preventing urban sprawl. The uses cited are all classified as 'more vulnerable' uses in terms of flood risk. The removal of the local planning authority's ability to manage flood risk via this PDR has the potential to result in these vulnerable uses being extended into areas of higher flood risk, without any requirement to ensure that the site is safe for its users and does not increase flood risk elsewhere. The response also outlines that many of these public buildings are heritage assets or located within conservation areas. Limiting the design considerations of such large extensions to materials only in these sensitive locations would be erroneous. The response suggests that the PDR, if taken forward, should not apply in Conservations Areas or within the curtilage of a Listed Building.

In terms of the revised development management procedure for major development, the response highlights that prioritising the determination of public service developments will slow the determination of other types of development (including housing). It highlights that if applicants do not submit the right information to enable decisions to be made within 10 weeks, there will be no material difference in decision-making timescales for public services.

The proposed reduction of the 21-day consultation period to 14 days is not supported. Whilst local engagement should take place prior to submission, reducing the time period local communities must submit formal written views would be unfair, noting that local communities and individuals already work to short timescales to find time to respond to planning applications.

Part 3 - Consolidation and simplification of existing permitted development rights

This part of the consultation is quite technical and is required in order to address the fallout of the amendments to the Use Class Order, which were implemented on the 1 September 2020. The change in use classes meant large parts of the General Permitted Development Order (GPDO) must be transferred over to a consolidated set of PDRs by the 31 July 2021.

Summary of Response

The Council's response is broadly supportive of the Government's approach of consolidating and simplifying the existing PDRs to make them more manageable and better understood.

The Council has, however, highlighted that transitional arrangements must be made to allow the Council to carry over its existing Article 4 Directions, which currently require planning permission to be sought for office and light industrial conversions to residential use in certain locations. These Article 4 Directions have been successful in protecting local amenity and maintaining the well-being of certain areas. They should be automatically transferred to reflect the uses held within Use Class E. Without such transitional arrangements, the government would be unnecessarily asking planning departments to go through the rigmarole of re-establishing existing Article 4 Directions.

Financial Implications

At this stage, it is not possible to quantify the potential financial impact of these changes, but it is important to highlight the areas that will be affected should the proposals within this consultation be implemented:

- The composition of the current tax base is likely to change in response to an increase of commercial to residential conversions, meaning a reduction in Business Rates and an increase in Council Tax. Further analysis will be required to evaluate the impact of this change to the tax base over time.
- An increase in conversions will remove the applicability of the Community Infrastructure Levy (CIL), which will have some bearing on the maximisation of the CIL income available to the Local Planning Authority. As there are fewer issues that can be considered under the prior approval process, there is no scope for planning obligations to be used to mitigate their harm. This includes external financial contributions for affordable housing, public open space, air quality, carbon emissions and construction training programmes. CIL is a pivotal funding stream for infrastructure development within the borough, the cost of which will fall to the local taxpayer if this funding stream is reduced.
- The changes proposed are likely to lead to an increase in applications going through the prior approvals process and a decrease in applications going through the full planning

application process. Consequently, this will affect the level of income currently generated, as the proposed fee for the new PDR under prior approval is approximately 1/5th of the fee for the full planning application. Furthermore, the fees being proposed are disproportionate to the level of input that is required on a prior approval application and thus the proposed response outlines that the fee per dwelling house should be increased and no maximum cap should apply.

Consideration should also be given to the potential impact on the Local Plan, including the economic development of town centres/business districts and the implications for Green Belt land, among other key areas. A proposal to undertake a Partial Review of the Local Plan is currently being developed and will be presented to Cabinet later this year.

RESIDENT BENEFIT & CONSULTATION

The benefit or impact upon Hillingdon residents, service users and communities?

The changes proposed within this consultation could have a direct impact on all aspects of the natural and built environment in Hillingdon. The proposed changes will therefore have a significant impact upon residents, businesses, service users and all members of Hillingdon's communities. Submitting a response allows the Council to influence the final decision as to if and how these proposals are implemented.

Consultation carried out or required

Internal consultation took place on the response with relevant officers within the Planning Department. The consultation was launched by the Government on 3 December 2020 and responses could be made by the public or organisations up until 28 January 2021.

CORPORATE CONSIDERATIONS

Corporate Finance

Corporate Finance has reviewed the report and concur with the Financial Implications set out above, noting that there are no financial implications arising from the report recommendations.

Legal

The Borough Solicitor confirms that the legal implications are included in the body of the report.

BACKGROUND PAPERS

MHCLG Open Consultation - Supporting housing delivery and public service infrastructure

Available at: [Supporting housing delivery and public service infrastructure - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/supporting-housing-delivery-and-public-service-infrastructure)