

Response by Epsom and Ewell Borough Council

“Supporting housing delivery and public service infrastructure”

<https://www.gov.uk/government/consultations/supporting-housing-delivery-and-public-service-infrastructure/supporting-housing-delivery-and-public-service-infrastructure>

Consultation period 3 December 2020 to 28 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)? Please give your reasons.

Response:

The Council strongly objects to the permitted development right between Commercial, Business and Service (Class E) to residential (C3). This will be the final nail in the coffin for the high street as we know them.

The reason given for this proposal appears to be Government's response to changing consumer behaviour and the challenges this has placed on high streets, which has been compounded COVID. However allowing this permitted development has the potential to completely see the end of many retail/commercial activity on the high streets.

It is accepted that the introduction does not necessarily mean that the permitted development will be taken up, however the opportunity to change into a residential use may be a 'quick win' and an appealing option in the current circumstances for struggling businesses. The short term win is not reversible under the permitted development regime and once lost the commercial use will be more difficult to change back.

The current planning restrictions in relation to commercial uses on our high streets are there to ensure that all alternative commercial options are explored before we lose these important uses and employment opportunities that are important for the local communities and the wider economy. This is particularly important now where the economy is vulnerable as a result of COVID and Brexit.

We accept that this current pandemic has created a very harsh unforgiving environment for businesses and the permitted development (prior approval) may offer an alternative viable option, however there is a permitted change in place for retail up to July 2021 that allows for a short term measure that respond to the current hiatus. This proposal seems like a knee jerk reaction and lacks long term strategic thinking of the future of our high streets.

The consolidation of various commercial uses earlier this year was itself an significant change in the use class order- however at least this did not undermine the primary function of our High Streets and Town Centres as economic/commercial centres which are supported by a range of services and infrastructure. The proposal has wider implications than the loss of the uses, the uses define the high street and the infrastructure that supports them, the public transport hub, community uses hub, and general activity hubs. The direction the Government is steering towards is completely ill informed.

It is noted that other considerations have not been mentioned in line with this proposal, namely whether affordable housing requirement will be applied? At the moment there is no requirement to provide affordable housing via prior approval. Space standards and light standards were introduced earlier this year but this was only 7 years later after the permitted development was introduced!

Therefore in response to the question whether any unit that falls within the use Class E should be able to benefit from the permitted development, No. The Council does not support the permitted development. Any relaxation of current policy should be restricted to smaller units that fall outside the designated retail centres or that do not fall within main shopping frontages. This will limit these impact to areas outside the main shopping areas and help to reshape/restructure and consolidate our existing high streets rather than seeing the death of them.

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?

Please give your reasons.

Should the permitted development be implemented it is understandable why these areas should be excluded from the right. These uses will be the lifeblood to these more rural and less accessible communities. Therefore it is only correct that these uses should not be easily changed through the right in these areas.

<p>Q2.2 Do you agree that the right should apply in conservation areas? Please give your reasons.</p>
<p>If the change of use affects the appearance/design of the frontage then logic implies that it may be necessary to exclude these from the permitted development right or extend the prior approval considerations to include the appearance.</p>
<p>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? Please give your reasons.</p>
<p>Some retail centres are in part covered by conservation areas and part not, including Epsom Town Centre, and therefore it is somewhat peculiar that a unit that may fall adjacent to each other, one being within the conservation area and one outside, one would be permitted development and one would not.</p> <p>What the actual impact of the loss needs to be clarified! In the context of the proposals, it seems the issue with a unit being within a conservation area being one of visual impact rather than the impact on the loss of retail unit. If the latter were the case then the impact on the loss of retail would apply even outside the conservation area!</p>
<p>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? Please give your reasons.</p>
<p>These appear to be consistent with other existing prior approval considerations. The Council welcomes the newly introduced prior approval considerations that were introduced this year that ensure appropriate living conditions but think these should have been introduced far earlier than they have done.</p>
<p>Q3.2 Are there any other planning matters that should be considered? Please specify.</p>
<p>The prior approval considerations are silent on matters that would be normally be considered through a planning application. By introducing the permitted development, you are sacrificing any consideration on matters including affordable housing, climate change (energy/water standards).</p>
<p>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 dwellinghouse? Please give your reasons.</p>
<p>No. It is understood from the consultation that this is the existing fee structure and proposals are currently charged per dwellinghouse, however the fee should accurately reflect the proportion and time spent on each application and the amount of work involved. It is also not understood why there is a cap on the fee for 50 units but not a cap on the number of units</p>

being put forward covered by the right. The fee does not appear to be based on any realistic calculations of the time and resources required to process each application.

Q4.2 If you agree there should be a fee per dwellinghouse, should this be set at £96 per dwellinghouse?
Please give your reasons.

It is understood this is the existing fee for similar prior approvals however the £96 fee does not seem to accurately reflect the time taken and resources involved in processing and determining the applications. It is also not understood why there is a cap on the fee for 50 units but not a cap on the number of units being put forward. The fee does not appear to be based on any realistic calculations and this may be an area that Government should consider reviewing in order to help resource/fund LPAs struggling to cope with the various new reforms/proposed by Government over the last year.

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?
Please specify.

Please see our response to Q1, The Council does not support the permitted development and believes there will be significant consequences to the economy and employment. There appears to be a complete lack of strategic thinking in terms of the future of our high streets. Housing is not the only development need that needs to be planned. The focus on housing in the absence of clear strategy for commercial development and employment will do more to harm the country, it's economy and infrastructure than has been properly considered. This is a completely ill informed, reckless proposal.

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?
If so, please give your reasons.

The government should make the necessary assessment of the impact however we have outlined the significant consequences we think the proposals will have in our response to Q1.

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?
If so, please give your reasons.

The government should make the necessary assessment of the impact.

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

<p>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?</p> <p>Please give your reasons.</p>
<p>There is no objection to the principle of supporting the extension of public service infrastructure. The Council supports this through it's existing Development Management Policy DM34. However there is concern about the potential impact the resulting mass/structure may have on the surrounding character- particularly where sites are located within residential areas. There should be some restrictions in relation to boundary treatment and distance from the boundary.</p> <p>Also, if there isn't already clarification in the right, it should be made clear that the extension relates to the 'original' footprint (as of a certain date) to avoid incremental increases over time beyond that 25% limit.</p>
<p>Q7.2 Do you agree that the right be amended to allow the height limit to be raised from 5 metres to 6?</p> <p>Please give your reasons.</p>
<p>No, it seems arbitrary, there is no clear reason provided in the consultation to support an increase.</p>
<p>Q7.3 Is there any evidence to support an increase above 6 metres?</p> <p>Please specify.</p>
<p>Perhaps the Government can advise of any evidence for their proposal to increase the height from 5 to 6m? The Council does not have any evidence to support the Government's proposal.</p>
<p>Q7.4 Do you agree that prisons should benefit from the same right to expand or add additional buildings?</p> <p>Please give your reasons.</p>
<p>The sensitive nature and security issues involved in this use may require further consideration and a permitted development may not be appropriate for this use.</p>
<p>Q8. Do you have any other comments about the permitted development rights for schools, colleges, universities, hospitals and prisons?</p> <p>Please specify.</p>
<p>No</p>
<p>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?</p> <p>If so, please give your reasons.</p>
<p>The government should make the necessary assessment of the impact.</p>
<p>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?</p> <p>If so, please give your reasons.</p>

The government should make the necessary assessment of the impact.
<p>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?</p> <p>If so, please give your reasons.</p>
The government should make the necessary assessment of the impact.
<p>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?</p> <p>If so, please give your reasons</p>
The government should make the necessary assessment of the impact.
<p>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)? Please give your reasons.</p>
<p>The Council supports the principle of a more efficient process for planning applications for public service development, however it is important that there has been strategic decisions made in advance to support proposals to facilitate a streamlined application process.. New development that comes forward for public service infrastructure should not be a surprise to local communities and advanced publicity, transparency would be required.</p> <p>In reality, a streamlined planning application process will mean more pre-application discussions and planning in advance of the formal application stage, and taking all this into account will mean there will actually be little time saved, just different procedures spread over the time it would have taken.</p> <p>Speed is important, particularly under the current circumstances with the pandemic, however speed of decision outside of a national emergency should not be at the expense of well-informed, balanced decision making. We are talking about large schemes between 1 hectare to 5 hectares, the scale of these proposals can have significant impact and it may not be appropriate for faster application process.</p>
<p>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?</p> <p>If not, please give your reasons as well as any suggested alternatives.</p>
The proposed streamlining needs to be carefully considered. The sensitive nature and security issues involved in latter uses may require further consideration and a streamlined process may not be appropriate.

<p>Q13 Do you agree the determination period for applications falling within the scope of the modified process should be reduced to 10 weeks? Please give your reasons.</p>
<p>No. As stated above, whilst a streamline process appears well intentioned. Speeding up decision making does not mean better decision making, quite the opposite decisions will need to be made faster and combined with the limited resources it will increase the risk of poor decisions being made.</p>
<p>Q14. Do you agree the minimum consultation/publicity period should be reduced to 14 days? Please give your reasons.</p>
<p>No. Government's proposals to repeatedly propose reducing consultation periods are completely ill informed. This does not offer sufficient time for comments to be made, particularly in relation to statutory consultees who may not have the resources/capacity to make responses in a reduced timeframe. These also do not factor in any timeframes to process and consider the comments made and do not factor in the resource implications on local authorities.</p>
<p>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? Please give your reasons.</p>
<p>Could this not be an automated process through the planning portal rather than a formal process which puts the onus on and additional pressure on LPA resources?</p>
<p>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? Please give your reasons.</p>
<p>There is no objection to the principle of this.</p>
<p>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? Please specify.</p>
<p>No comment.</p>
<p>Q17.2 Do you have any other suggestions on how these priority public service infrastructure projects should be prioritised within the planning system? Please specify.</p>
<p>No comment</p>
<p>Q18 Do you think that the proposed amendments to the planning applications process for public service infrastructure projects could give rise</p>

to any impacts on people who share a protected characteristic? If so, please give your reasons.
The government should make the necessary assessment of the impact.
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? Please give your reasons.
The review of the existing permitted development rights in the context of recent changes to the use class order is necessary and perhaps should have been made at the same time as the changes to the use classes.
Q19.2 Are there any additional issues that we should consider? Please specify.
The government should make the necessary assessment of the impact of it's proposals
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? Please give your reasons.
In the context of the already implemented use class E, there is no objection to this.
Q21 Do you agree the broad approach to be applied in respect of category 4 outlined in paragraph 76 of the consultation document? Please give your reasons.
In the context of the already implemented use class E, there is no objection to this.
Q22 Do you have any other comments about the consolidation and simplification of existing permitted development rights? Please specify.
No comment