

Report of the Chief Executive

PLANNING REFORMS AND CHANGES TO PERMITTED DEVELOPMENT AND THE USE CLASSES ORDER1. Purpose of report

To update members on recent changes announced to permitted development rights and the Use Classes Order and to provide a brief summary of the proposed planning reforms announced within the Government's 'Planning for the Future' consultation.

2. Detail

The Government has announced a number of significant changes to the planning system including additional permitted development rights and changes to the Use Classes Order. The changes provide additional rights for extensions through the right to add additional storeys to buildings and through new rights to redevelop sites without obtaining full planning permission. The Use Classes Order has also been extensively revised to combine a number of classes into a new 'Class E'.

The 'Planning for the Future' consultation document proposes a number of significant reforms to the planning system. The Council has until 29 October 2020 to provide a response on the consultation.

Further details are provided within the appendix.

3. Financial Implications

The changes to permitted development rights and the Use Classes Order has the potential to reduce the number of planning applications submitted to the Council. However, the additional permitted development rights are subject to prior approvals which are likely to require a fee. The proposed reforms to the planning system may have significant financial impacts but these are currently unclear due to the nature of the consultation document.

Recommendation

The Committee is RESOLVE to delegate authority to the Interim Head of Planning and Economic Development to submit a response in respect of the Government's 'Planning for the Future' consultation by 29 October 2020.

Background papers

Nil

APPENDIX**1. Introduction**

The Government has announced a number of significant changes to the planning system including additional permitted development rights and changes to the Use Classes Order. On 6 August the Government also published 'Planning for the Future' which proposes a number of significant changes to the planning system. The purposes of this report is to provide a summary of these changes.

2. Planning for Growth Consultation

The document proposes a number of significant changes to the planning system including plan-making, development management, development contributions, and other related policy proposals. A summary of the main changes proposed are provided below. The deadline for submissions to the consultation is 29 October 2020. It should be noted that the reforms proposed would require primary and secondary legislation prior to being implemented.

Local Plans would focus on identifying land under three categories - Growth areas suitable for substantial development, and where outline approval for development would be automatically secured for forms and types of development specified in the Plan; Renewal areas suitable for some development, such as limited densification; and Protected areas where development is restricted. Protected areas would include the Green Belt. General development management policies would be set nationally, with a more focused role for Local Plans in identifying site and area specific requirements, alongside locally-produced design codes. The document states that local planning authorities and neighbourhoods (through Neighbourhood Plans) would play a 'crucial role' in producing required design guides and codes to provide certainty and reflect local character and preferences about the form and appearance of development. The Government states that there should be significantly more engagement with the public in the formation of Local Plans utilising new forms of technology.

Local Plans would be subject to a single statutory "sustainable development" test. This would mean replacing the existing tests of soundness and abolishing the Duty to Cooperate. Local authorities and the Planning Inspectorate will be required through legislation to meet a statutory timetable (of no more than 30 months in total) for key stages of the process, and there will be sanctions for those who fail to do so. There is significant emphasis on a 'digital first' approach, using standardised data and interactive maps.

There would be a new nationally-determined, binding housing requirement that local planning authorities would have to deliver through their Local Plans. This would be focused on areas where affordability pressure is highest to stop land supply being a barrier to enough homes being built. It is stated that this would factor in land constraints, including the Green Belt. The Housing Delivery Test would remain and there would be a presumption in favour of sustainable development if housing targets were not being met.

Areas identified as Growth areas would automatically be granted outline planning permission for the principle of development. Further details would be agreed and full permission achieved through consent routes which focus on securing good design and addressing site-specific technical issues. In areas suitable for development (Renewal areas), there would be a general presumption in favour of development established in legislation. Consent for development would be granted through a new permission route which gives an automatic consent if the scheme meets design and other prior approval requirements. In areas where development is restricted (Protected areas) any development proposals would come forward as now through planning applications being made to the local authority. For all applications there would be a significant reduction in the amount of supporting information required to be submitted.

There is also reference to a “fast-track for beauty” through changes to national policy and legislation, to automatically permit proposals for high quality developments where they reflect local character and preferences. There is emphasis on design throughout the document including every street being tree lined and that each authority should appoint a chief officer for design and place-making.

There may be automatic refunds of the planning fee for an application if the local authority fails to determine it within the time limit or some types of applications may be deemed to have been granted planning permission if there has not been a timely determination. ‘Extensions of time’, currently used extensively, would likely to be removed. There may also be refunds if a refusal is overturned at appeal.

The current system of planning obligations would be reformed as a nationally-set value-based flat rate charge (‘the Infrastructure Levy’). A single rate or varied rates could be set. This would replace S106 agreements. The rate would be charged on the final value of a development and would be levied at point of occupation. The document states that local authorities will have greater powers to determine how developer contributions are used, including by expanding the scope of the Levy to cover affordable housing provision to allow local planning authorities to drive up the provision of affordable homes. The document states that a small proportion of the income should be earmarked to local planning authorities to cover their overall planning costs. The document states that to better support the timely delivery of infrastructure, local authorities would be allowed to borrow against Infrastructure Levy revenues so that they could forward fund infrastructure. However, local authorities would have to assure themselves that this borrowing is “affordable and suitable”.

Reference is also made to strengthening enforcement powers although there are no specific details regarding what this may include.

3. Use Classes Order

The Use Classes Order groups different uses of land and buildings into use classes. A change of use within a single use class is not considered to be development and therefore does not require planning permission.

The schedule to the current Use Classes Order sets out four main categories of use class. These are A classes (which cover retail, food and drink), B classes (which cover places of work including offices and industry), C classes (which cover housing) and D classes (which cover institutions and leisure uses). There are also Sui Generis uses which fall outside of the categories.

The new regulations create a new commercial, business and service use class (Class E). This replaces shops (A1), financial and professional services (A2), restaurants and cafes (A3) and offices (B1) classes. The new Class E also includes uses including gyms, nurseries and health centres (previously in use classes D1 (non-residential institutions) and D2 (assembly and leisure))

The implications of these changes are there will be significant flexibility for uses to change without requiring planning permission. This is particularly significant in town centres where Local Plan policies have previously protected A1 uses. It should also be noted that pubs and bars (A4) and hot food takeaways (A5) will now be Sui Generis Uses. This means that planning permission will be required to change to or from these uses.

Additional changes include a new learning and non-residential institutions use class (Class F1) which incorporates those uses from the former D1 (non-residential institutions) class which involve buildings such as schools, libraries and galleries which are regularly in the wider public use.

A new local community use class (Class F2) has also been created which groups together those uses from the D2 (assembly and leisure) class which involve activities of a more physical nature (such as swimming pools, skating rinks and areas for outdoor sports) as well as the use of buildings where such usage is principally by the local community.

The regulations come into force on 1st September 2020. However transitional provisions will ensure that buildings or uses will continue to be subject to any existing permitted development rights until 31 July 2021 when revised permitted development rights will be introduced.

4. Permitted Development

The Government has announced a number of amendments to permitted development rights which are due to come into force on 31 August 2020.

Part 1 of Schedule 2 (Class AA) permits the enlargement of a dwellinghouse by the construction of new storeys on top of the highest existing storey of the dwellinghouse. If the dwellinghouse is two or more storeys tall then two storeys may be added. If the dwellinghouse is a bungalow then one storey may be added. The new right is subject to a number of limitations including relating to the building's height and its height in relation to neighbouring properties (if semi-detached or terraced). Further, prior approval is required in relation to such matters as: impact on amenity, external appearance and impact on protected views.

Four more permitted development rights (Classes AA, AB, AC and AD) have been added relating to creating additional flats. These allow for the construction of new flats on top of the highest storey of certain types of building:

Class AA permits construction of up to two new storeys of flats on top of detached buildings in commercial or mixed use, including where there is an element of residential use.

Class AB permits the construction of new flats on top of terrace buildings (including semi-detached buildings) in commercial or mixed (including residential) use.

Class AC permits the construction of new flats on top of terraced dwellinghouses (including semi-detached houses). Two storeys may be added to buildings of two or more storeys, one storey may be added to bungalows.

Class AD allows the construction of new flats on top of detached dwellinghouses. Again, two storeys may be added where the building is two or more storeys tall or one additional storey on a bungalow.

These four rights are subject to limitations and conditions and require prior approval from the Council including with regards to transport and highways impacts, external appearance, adequate natural light, amenity impacts, and impact on protected views.

A new permitted development right (Class ZA) has been added which allows for the demolition of a single detached building in existence on 12 March 2020 that was used for office, research and development or industrial processes, or as a free-standing purpose-built block of flats, and its replacement by an individual block of flats or a single detached dwellinghouse within the footprint of the old building. Limitations include that the old building should have a footprint of no larger than 1,000msq and be no higher than 18m. The building must have been built before 1990 and have been vacant for at least six months before the date of the application for prior approval.

The permitted development right grants permission for works for the construction of the new building which can be up to two storeys higher than the old building with a maximum overall height of 18m. This right is also subject to prior approval on matters such as: transport and highways, contamination, flooding, design, external appearance, adequate natural light, amenity, noise from commercial uses on the new occupiers, impact on business and new residents, heritage and archaeology, method of demolition, landscaping and impact on protected views.

Amendments have also been made to existing permitted development rights which allow changes of buildings into residential uses to include the consideration of the provision of adequate natural light to all habitable rooms under the prior approval procedure.

There are also changes allowing developers to extend the hours of construction on building sites and a new temporary permitted development right that allows

councils to hold outdoor markets without planning permission. Therefore, a local authority has a greater freedom to allow market traders to setup outdoor stalls. The permitted development right is in place until 23 March 2021.

Development which has already received the grant of planning and which would lapse between 23rd March 2020 and 31st December 2020 now have until 1st April 2021 to be implemented.