

Report to: **Strategic Planning Committee**



Date of Meeting 27<sup>th</sup> April 2021

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## **Call for Evidence: Permitted development rights**

### **Report summary:**

This report details a response to the Governments Call for Evidence in relation to permitted Development Rights outlining the Councils response to a new Government Inquiry and advising of issues and matters for the Inquiry to consider.

### **Is the proposed decision in accordance with:**

Budget Yes  No

Policy Framework Yes  No

### **Recommendation:**

That the Committee agree the contents of the report and that the report form the basis of the response to Government on the Call for Evidence Inquiry.

### **Reason for recommendation:**

To enable the Council to engage in the Call for Evidence and to ensure that the Council's views are considered by the Inquiry.

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### **Portfolio(s) (check which apply):**

- Climate Action and Emergencies
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Culture, Tourism, Leisure and Sport
- Democracy and Transparency
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Low Risk;

**Links to background information** [Permitted Development Rights - Committees - UK Parliament](#)  
[New inquiry: Permitted development rights - Committees - UK Parliament](#)

**Link to [Council Plan](#):**

Priorities (check which apply)

- Outstanding Place and Environment
  - Outstanding Homes and Communities
  - Outstanding Economic Growth, Productivity, and Prosperity
  - Outstanding Council and Council Services
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## **Call for Evidence. New Inquiry: Permitted Development Rights**

1.1 The Housing, Communities and Local Government Committee has launched a new Inquiry to examine the Government's approach to permitted development rights.

1.2 The aim of the inquiry is to examine the Government's recent and proposed changes to permitted development rights in respect of large-scale development, commercial to residential conversions and changes of use between different types of commercial and retail premises. In particular, the inquiry will explore their role in supporting economic growth and their impact on local authorities, including their ability to plan development holistically, developer contributions, the provision of services and social housing and the supply of quality new homes.

1.3 The terms of reference for the Call for Evidence is as follows:

With specific reference to permitted development in respect of large-scale development, commercial-to-residential conversions and changes of use between different types of commercial and retail premises:

- What role should permitted development rights (PDR) play in the planning system?
- What is the impact of PDR on the quality and quantity of new housing, including affordable and social housing?
- What is the impact of PDR on local planning authorities, developer contributions and the provision of infrastructure and services?
- Is the government's approach to PDR consistent with its vision in the Planning White Paper?
- What is the impact of PDR on the ability of local authorities to plan development and shape their local communities?
- Is the government right to argue that PDR supports business and economic growth?
- What is the impact of PDR on the involvement of local communities in the planning process?
- Should the government reform PDR? If so, how?

In addition, written submissions may touch on any other matter relevant to the government's approach towards these kinds of permitted development.

1.4 Launching the inquiry, Chair of the Housing, Communities and Local Government Committee, Clive Betts MP said:

"Local communities face an unprecedented challenge. The Covid-19 pandemic and lockdown has placed severe pressures on urban environments that were already struggling. As we look to return to normal life we still don't know what the long-term outlook will be, both in terms of the viability of existing commercial and office space or the need for domestic housing.

“Given these uncertainties it is crucial that the right framework is in place to support local communities to adapt to meet the new reality, whatever it may be. The Government has indicated its intention to use permitted development rights to allow greater flexibility in how buildings are used, removing the need for planning approval for switching use between offices, shops and housing under certain circumstances.

“We have launched this inquiry to understand the implications of this approach. Does it provide sufficient scope for local authorities to set out a coherent plan that addresses local needs? How well does it support the Government’s broader goals for economic development and housing capacity? Fundamentally, do they enable the economic and societal recovery we need.”

## **Council’s evidence for submission**

- 2 Taking each of the questions posed by the inquiry it is suggested that the Council make the following submissions for their consideration:

### What role should PDR play in the planning system?

- 2.1 There is a role for permitted development rights in the planning system but this should be for very small scale development that would have very limited and localised impacts. Prior to the introduction of recent changes to Schedule 2 Parts 3 (Changes of Use) and Part 20 (Construction of New Dwellings), the PDR’s worked fairly well in terms of allowing small scale development with limited impacts and which, crucially, were not generally in conflict with Local Plan or Neighbourhood Plan Policies.
- 2.2 There is a particular concern with regard to Classes M-U of Part 3 and the whole of Part 20 of the General Permitted Development Order.
- 2.3 It is recommended that the PDR’s revert back to the position prior to the introduction of the Prior Approval route for Changes of Use under Classes M-U of Part 3 and Part 20.

### 3 What is the impact of PDR on the quality and quantity of new housing, including affordable and social housing?

- 3.1 As these PDR applications generally limit what Local Planning Authorities can consider, it means that local and neighbourhood plan policies that contain policies regarding the quality and quantity of development become redundant. This can limit the quality of development. It can also lead to communities feeling disenfranchised from the planning system when they have given up a lot of their time to produce a neighbourhood plan only for the policies to be overruled by new permitted development rights.
- 3.2 Whilst the new PDR’s may have increased the quantity of new housing, the numbers are limited with any benefits outweighed by the fact that most new dwellings are located in unsuitable and remote locations in the countryside.
- 3.3 For example, the current PDR’s allow agricultural buildings in very rural, isolated and often sensitive locations to be converted to dwellings, shops, hotels and other uses with minimal assessment by the local planning authority and via a process that the local planning authority and wider public find less than democratic.
- 3.4 As a planning authority for a very rural planning authority we feel we have lost necessary control over some developments. The planning system is supposed to be plan-led yet this

legislation often over-rides consideration against local plan policies and neighbourhood plan policies. The result of this is that local communities, despite engaging in the local plan process, and in many cases spending years and many thousands of pounds preparing a neighbourhood plan for their area, find themselves with development being granted under the PDR process contrary to local and neighbourhood plan policies.

- 3.5 The process has resulted in increases in travel and use of private transport in unsustainable rural areas, making it very difficult to achieve our carbon neutral target for the District. Inhabitants of these countryside villages and hamlets are understandably very concerned that their Neighbourhood Plans and the East Devon Local Plan, which have been years in the making, are rendered ineffective, and that Central Government is dictating development, often outside of the Built Up Area Boundaries to the benefit of individuals only and at the expense of wider objectives.
- 3.6 Examples of such situations are as follows with example application references provided. Further details of these applications are available from our website at: [Simple Search \(eastdevon.gov.uk\)](http://eastdevon.gov.uk):
- Having to grant consent for the conversion of an agricultural building to a shop in the small hamlet of Combe Raleigh against the wishes of all of the residents and resulting in a shop that will encourage people to drive there from established settlements with the associated traffic movements and disturbance to residents – See application 20/2563/FUL;
  - Having to grant consent for the conversion of employment buildings to residential use undermining local employment opportunities – See application 20/2856/PDO that allowed the loss of an office on a business park at McBains Business Units to residential use undermining the employment provision on the site and resulting in the loss of employment land and provision of a residential unit in an undesirable location on a business park;
  - Having to grant consent for agricultural buildings to be used as hotels in unsustainable locations undermining our existing hotels and guest houses in our main towns – see 20/0396/PDR at Musgrove Farm, Dunkeswell Abbey;
  - Having to grant consent for a chicken house to a 3 shop units in a very rural area undermining our already struggling town centres – 18/2388/PDR at Greendale Farm, Farringdon.
- 3.7 In addition to the above, there is a general concern that the planning legislation allows people to use just the possibility of being able to gain Prior Approval under this legislation as justification for other development. For example, the fact that somebody could apply for a change of use of an agricultural barn to a dwelling under the Prior Approval process is enough for somebody to be able to justify a new build dwelling in its place without actually having to apply for Prior Approval. This results in the Local Planning Authority having to grant planning permission for new dwellings in place of a barn, even though it has not been converted or have consent for residential use. And to make matters worse, the local planning authority then find it almost impossible to refuse permission for a replacement dwelling of a larger footprint and different design. Therefore, instead of a sensitive barn conversion, the local community end up with a new house that does not resemble the barn that was supposed to be converted. This is then very hard to justify to the public. Ultimately the PDR's give developers a fall-back position which makes resisting other inappropriate developments very difficult.
- 4 What is the impact of PDR on local planning authorities, developer contributions and the provision of infrastructure and services?

4.1 Unwelcome consequences from the latest changes to the PDR's on local authorities is as follows:

- Loss of income – the new PDR processes involving Prior Approval have fees that are considerably less than the equivalent planning application fee but cost the local planning authority considerably more to process. The fees are far less than the actual cost of processing the application generating an additional cost burden to the local authority;
- These applications often involve more work for the local planning authority due to the shortened timescales for consideration, need to explain complex processes to the public and stakeholders, the need to be constantly adapting to the fact that the PDR's are constantly changing and due to the number of different PDR's available. In addition, it is usually the case that the grant of PDR Prior Approval application leads to a further planning application and more work and processes. It is particularly confusing that the courts have now determined that the presence of a fall-back under the PDR's (even if not granted) can be used to justify the grant of planning permission;
- It is very difficult to explain and justify the processes to the general public – particularly when such proposals go against local or neighbourhood plan policies that have been through considerable public consultation and are suddenly redundant;
- The PDR process makes it harder to secure developer contributions as the legislation rarely allows for such matters to be considered or secured – this is particularly relevant where development is affected by the Habitat Regulations. Separate consent under the habitat regulations can often be required simply to secure a financial contribution to an established mitigation strategy because suitable provisions were not made in the PDR process;
- It results in planning permission being granted for development that is contrary to local and neighbourhood plans. This is at best confusing and at worst undemocratic.

5 Is the government's approach to PDR consistent with its vision in the White Paper?

- 5.1 It may be consistent in terms of getting more dwellings constructed, but it is not consistent with having a simpler planning system and one that the public can understand. The system used to be relatively simple in that there were only two options as in most cases you either needed planning permission or you didn't. The PDR's introduce a complicated half way house which much of the planning profession do not understand nevermind developers and the community. Then within the prior approval process there are different factors that can be considered depending on which permitted development rights are being used thus making the process even harder to understand. This runs totally contrary to the principles of the white paper around engaging the public in the planning process, making it easier to understand and greater transparency.
- 5.2 It is also contrary to having a plan led system undermining the importance of the plan and the reasons why the public should engage with its production. Why would people engage in the preparation of a local plan or neighbourhood plan, only to see such policies disregarded by PDR's?

6 What is the impact of PDR on the ability of local authorities to plan development and shape their local communities?

- 6.1 As the PDR's can result in development contrary to local and neighbourhood plan policies, it makes it difficult for the local authority to adequately control and plan development.
- 6.2 Local authorities, and local communities through neighbourhood plans, seek to shape their local communities in the best interests of the area. The PDR's currently over-ride this and as such make it difficult to shape communities.
- 6.3 Examples of this being that it can be difficult to retain rural shops and businesses, difficult to guide uses to appropriate locations, and difficult to retain a particularly local characteristic or landscape.

## 7 Is the government right to argue that PDR supports business and economic growth?

- 7.1 Yes. But the benefits are limited, and often at the expense of other planning objectives such as ensuring sustainable development and addressing climate change. It is also at the expense of keeping the public engaged in the planning process, having a plan-led system and protection of the countryside.
- 7.2 It can also be the case that the PDR's result in the loss of businesses (e.g. shops to residential use) with any economic benefits very limited and at the expense of wider public benefits.

## 8 What is the impact of PDR on the involvement of local communities in the planning process?

- 8.1 The impact is severe and very worrying. Local communities do not understand the PDR's as they are very confusing and it is difficult to explain why a development has to be approved contrary to a local plan or neighbourhood plan policy as it is not a consideration. After all of the time, effort and money put into producing a local plan and/or neighbourhood plan, this gives the impression that the work was not worthwhile and that the views of the community are being ignored. This results in the public losing faith in the local planning authority and feeling disenfranchised from the wider planning system and this must be addressed.

## 9 Should the government reform PDR? If so, how?

- 9.1 It is recommended that the PDR's are shortened, streamlined and in particular this should be achieved through Parts 3 and 20 of the GPDO reverting back to the position about 4 years ago before the introduction of Classes M-U and Part 20.

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### **Financial implications:**

There are no specific financial implications impacting the council at this stage. The potential financial implications of reform, with regards to fees, officers time and developer contributions in particular, have been addressed within the body of the report. Detrimental impacts to the planning income streams would have knock on impacts to both council services and investment in local communities.

### **Legal implications:**

It is within the terms of reference of this Committee to agree responses to Government consultations on planning related matters on behalf of the Council. Otherwise the report does not raise any other legal implications which require comment.