

Public Document Pack

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Tuesday, 19 January 2021

S U M M O N S

MEETING: Economic Development Board
DATE: 27 January 2021
TIME: 6.00 pm
PLACE: Virtually
Democratic Services contact: Lisa Young

PAUL GRANT
BOROUGH SOLICITOR AND MONITORING OFFICER

MEMBERS OF THE BOARD

The Mayor (Councillor Hook (ex-Officio))
Councillor Mrs Huggins (Mayor) and Councillor Philpott (Chairman)
Councillor Beavis (Vice-Chair)

Councillor Ms Ballard	Councillor Johnston
Councillor Bateman	Councillor Mrs Jones
Councillor Casey	Councillor Miss Kelly
Councillor Mrs Cully	Councillor Mitchell
Councillor Mrs Furlong	Councillor Mrs Prickett
Councillor Hutchison	Councillor Scard
Councillor Jessop	

NOTE:

- i. Councillors are requested to note that, if any Councillor who is not a Member of the Board wishes to speak at the Board meeting, then the Borough Solicitor is required to receive not less than 24 hours prior notice in writing or electronically and such notice shall indicate the agenda item or items on which the member wishes to speak.
- ii. Please note that mobile phones should be switched off or switched to silent for the duration of the meeting.
- iii. This meeting may be filmed or otherwise recorded. By attending this meeting, you are consenting to any broadcast of your image and being recorded.

AGENDA

RECOMMENDED
MINUTE FORMAT

1. APOLOGIES FOR NON-ATTENDANCE

2. DECLARATIONS OF INTEREST

All Members are required to disclose at this point in the meeting or as soon as possible thereafter, any disclosable pecuniary interest or personal interest in any item(s) being considered at this meeting.

3. MINUTES OF THE PREVIOUS MEETING OF THE ECONOMIC DEVELOPMENT BOARD HELD 18 NOVEMBER 2020

4. DEPUTATIONS - STANDING ORDER 3.4

(NOTE: The Board is required to receive a deputation(s) on a matter which is before the meeting of the Board provided that notice of the intended deputation and its object shall have been received by the Borough Solicitor by 12 noon on Monday 25 January 2021. The total time for deputations in favour and against a proposal shall not exceed 10 minutes).

5. PUBLIC QUESTIONS - STANDING ITEM 3.5

(NOTE: The Board is required to allow a total of 15 minutes for questions from Members of the public on matters within the terms of reference of the Board provided that notice of such Question(s) shall have been submitted to the Borough Solicitor by 12 noon on Monday 25 January 2021).

6. SUPPORTING HOUSING DELIVERY AND PUBLIC SERVICES INFRASTRUCTURE: GOVERNMENT CONSULTATION ON PROPOSED EXPANSION OF THE SCOPE OF PERMITTED DEVELOPMENT RIGHTS

To brief Members regarding the content of the Government's 'Supporting Housing Delivery and Public Service Delivery' online consultation (December 2020) and set out key matters to form the basis of a formal online response.

7. ANY OTHER ITEMS

8. EXCLUSION OF THE PRESS AND PUBLIC

Economic Development Board
27 January 2021

8.	New Letting of Café at the Alver Valley Western Gateway	THE REPORT CONTAINS DETAILS OF THE FINANCIAL AFFAIRS OF A THIRD PARTY IF THIS INFORMATION WAS MADE PUBLIC IT MAY HAVE AN ADVERSE IMPACT ON THE CONTRACT. THEREFORE THE PUBLIC INTEREST IN MAINTAINING THE EXEMPTION OUTWEIGHS THE PUBLIC INTEREST IN DISCLOSING THE INFORMATION.	Julie Smith
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9. NEW LETTING OF THE CAFE AT THE ALVER VALLEY COUNTRY PARK

To inform the Board of the outcome of the marketing of the café part of the Alver Valley Western Gateway Building and to recommend the preferred tenant.

Public Document Pack Agenda Item 3

Economic Development Board

18 November 2020

A MEETING OF THE ECONOMIC DEVELOPMENT BOARD WAS HELD ON 18 NOVEMBER 2020

The Mayor Councillor Mrs Huggins, Ms Ballard, Bateman, Beavis, Casey, Mrs Cully, Mrs Furlong, Hutchison, Jessop, Johnston, Mrs Jones, Miss Kelly, Mitchell, Philpott, Mrs Prickett and Scard

22. APOLOGIES FOR NON-ATTENDANCE

There were none.

23. DECLARATIONS OF INTEREST

Councillor Johnston declared a personal interest in agenda item 8 as he sold flood risk insurance.

24. MINUTES OF THE PREVIOUS MEETING OF THE ECONOMIC DEVELOPMENT BOARD HELD ON 23 SEPTEMBER 2020

RESOLVED: That the minutes of the meeting held on the 23 September 2020 be signed as a true and correct record.

25. DEPUTATIONS - STANDING ORDER 3.4

There were none.

26. PUBLIC QUESTIONS - STANDING ITEM 3.5

There were none.

27. DRAFT ECONOMIC DEVELOPMENT STRATEGY

Consideration was given to a report of the Economic Development and Regeneration Manager requesting the Economic Development (ED) Board consider the outcome of the consultation for the 2021-31 Draft Economic Development Strategy and the supporting Draft Evidence Base and gives its approval to produce final versions for publication.

Members thanked the Economic Development team for their efforts in producing the consultation and the detailed analysis of the responses.

The link to "Gosport's Story" place-making work, to other Gosport strategies including the Local Plan and SPD's was welcome as was the link to recognising and addressing the skills gap in Gosport, and the support for businesses. The Board acknowledged that this was recognised in the recommendation through the use of a taskforce and strategic boards.

Members expressed disappointment at the low number of responses received to the consultation. It was clarified that where possible information could potentially be attained about the respondents, but that would need to in line with GDPR requirements as the consultation was run by Mickledore who hold all the data.

Economic Development Board
18 November 2020

Members questioned whether a longer consultation period would have offered more response.

The Board was advised that the advertisement of the consultation period had been widely, with two press releases and three different approaches on social media across many channels. Direct contact was made to businesses via email contacts. Whilst it was acknowledged that there was a low response, the quality of the responses was good.

The Board was advised that it was felt that extending the consultation period would not necessarily have increased the response numbers significantly, and that it was felt the low numbers were as a result of Economic Development being a specialist area.

It was clarified that the Taskforce was led by the Member of Parliament and not the Borough Council and comprised senior Civil Servants from organisations such as DIO, MOJ and the Solent Local Enterprise Partnership. One Public Estate were also attendees and the Council had access to the discussions, but did not lead on it.

The Board was advised that in relation to the taskforce or a strategic board, increasingly when the government made funding available there was an necessity for a strategic group, led by a private sector chairperson, playing the lead role in determining and leading the bid.

This Board would include a combination of business leads, elected members, residents and community organisations. It was acknowledged that there was need for such a group in Gosport and that strategic priorities or projects needed to be established for future bid opportunities. It was recognised that the turnaround for such funding bids was increasingly short and that consideration needed to be given to projects that are 'oven-ready' for such funding opportunities.

The Board was advised that discussions had begun with the Arts Council for England to discuss cultural progression for the Borough and it was hoped this would help to increase the levels of cultural development in the Borough moving forward.

The importance of cultural opportunities to businesses was recognised and it played an important part in decision making and relocating of families to meet the needs of businesses potentially thinking of moving into the Borough.

Members recognised that the consultation acknowledged the generation of employment opportunities and stimulating investment in Gosport as being key priorities.

Members welcomed the proposal to develop a Tourism Development Strategy early in 2021 to enhance tourism opportunities in the Borough and also welcomed that the Strategy could evolve and become a working document.

RESOLVED:

- i) that the ED Board note the outcome of the consultation on the 2021-31 Draft Economic Development Strategy and the Draft Evidence Base as recorded in the Consultation Report and accompanying Strategy Review Document
- ii) that the ED Board agree to a final version of the Strategy being produced for publication in January 2021

28. INTERIM LOCAL DEVELOPMENT SCHEME FOR THE GOSPORT BOROUGH LOCAL PLAN 2036

Consideration was given to a report of the Head of Planning Policy requesting the Board give consideration to the Interim Local Development Scheme for the Gosport Borough Local Plan.

Members thanked officers for the work undertaken.

In answer to a Member's question the Board was advised that Government changes in policy often caused delays in the timescale and created slippage and that the Government's consultation on the White Paper was likely to cause uncertainties on how to proceed.

The Board was advised that in relation to the evidence phase of the work, most of the big land use evidence strategic housing land availability assessment and the employment land availability assessment and the retail and town centre use, been completed. The Board was also advised that the open space monitoring report was nearly complete and that the environmental assessment work was now beginning.

The Board was also advised that the biggest issue currently faced was the moving on some of sites, MOD sites in particular as there was a reliance on the organisation's progress to ensure collaborative working. Meetings were occurring to address this.

The Board was advised because the consultation was Regulation 18 if the Council did not have all of the information required it was possible to set out options rather than the full plan which would allow for less firming on the plan if necessary.

Members welcomed that the SPDs and Conservation areas would remain valid and not be reviewed until the next Local Plan had been adopted.

In answer to a Member's question, the Board was advised that in relation to the removal of the duty of cooperation, the statement of common ground was due to be removed from the planning system if the white paper proceeded to an act. The Board was advised that the Council was currently working as such that the statement of common ground did need to be worked towards and that it formed part of the duty to cooperate.

The Board was advised with regard to the current local plan, that the basis of the duty to cooperate was the work undertaken with PUSH and the special position statement and that at the examination in public with the inspector, the inspector had held the work in good regard. It was felt this would form the basis of any duty to cooperate this time. The Board was advised that the work with PUSH was of value and provided evidence on employment, housing and strategic development opportunity areas.

The Board was advised that there was also the bilateral statement of common grounds that may wish to be considered with neighbours such as Fareham and that it was expected that Fareham Borough Council would approach Gosport Borough Council with a view to undertaking a statement of common ground as they proceed with their local plan. The document was yet to be received but would require approval from a Board of the Council.

No details were available of any possible replacement scheme.

Members recognised that there was the potential for a change in algorithm on housing numbers.

The Board were advised that the Fareham Local Plan was currently at Regulation 19 stage and out for consultation and would be presented to the Regulatory Board in December.

RESOLVED: That the Board approves the Interim Local Development Scheme November 2020 (as set out in Appendix A).

29. INFRASTRUCTURE FUNDING STATEMENT

Consideration was given to a report of the Planning Policy Manager seeking approval for the introduction of a monitoring fee for Section 106 agreements as allowed by the CIL Regulations 2019 and as detailed in Section 4 of the IFS.

Councillor Johnston declared a personal interest in the item, but remained online.

The Board was advised that this was a new requirement that authorities were required to do and that it had to be published by the 31st December 2020 and it was parallel to spreadsheets that would be published detailing developer contributions.

The Board was advised to make the document useful to members of the public and companies, the Council had gone beyond requirements of the regulations.

Members welcomed the clarity that the additional information provided.

Members also agreed that there was value to Monitoring Fee as a result of the work involved.

RESOLVED: That

- Approves the Infrastructure Funding Statement 2020 contained within Appendix A of this report and any necessary minor amendments be delegated to the Planning Policy Manager.
- Approves the introduction of a Section 106 monitoring fee as set out in Section 4 of the IFS.

30. ANY OTHER ITEMS

There were none.

CHAIRMAN

Concluded at 7.01 pm

Agenda Item 6

AGENDA ITEM NO.

Board/Committee:	Economic Development Board
Date of Meeting:	27 th January 2021
Title:	Supporting Housing Delivery and Public Service Infrastructure: Government consultation on proposed expansion of the scope of Permitted Development Rights
Author:	Manager of Planning Policy
Status:	For Decision

PURPOSE

To brief Members regarding the content of the Government's '*Supporting Housing Delivery and Public Service Delivery*' online consultation (December 2020) and set out key matters to form the basis of a formal online response.

RECOMMENDATION

That this Council makes the following representations to the Government: (as expanded upon within sections 2-4 of this Report):-

- A. The Council considers that the proposed changes to Permitted Development Rights is an existential threat to Local Plan-led planning and sustainable development in Gosport and hence strongly objects for the following reasons set out in the Report:
 - i. Rebuilding Town Centres and facilitating mixed-use sites requires genuine Local Plan-led planning in line with the National Planning Policy Framework (2019) Paragraph 15. The proposed crude Permitted Development Rights clearly do not constitute an appropriate substitute for Local Plan-led planning. The proposals are unclear as to how they address NPPF Paragraph 150 with regard to the relationship between new development and addressing climate change. There is also an inherent tension between effective community engagement and the use of the Prior Approval process for major development proposals.
 - ii. The potential loss of designated Employment Land which benefits from former Class B1 uses (now in Class E) which includes Offices, Research and Development facilities and Light Industry, to residential use, which will directly undermine the Borough Council's long standing strategy of retaining and enhancing its employment offer and increasing its job density.
 - iii. The proposed Permitted Development is likely to accelerate the loss of retail and quasi-retail units where greater value can be extracted by residential conversion, and potentially driving investment away from residential development proposals which still require planning permission.
 - iv. Reduced level of protection for Conservation Areas with proposals being determined through the Prior Approval process rather than Planning Applications.
 - v. The extent to which the use of the proposed Permitted Development Rights may be stymied by conditions on existing permissions is not acknowledged in the consultation.

- vi. Permitted Development residential conversions would bring in no Affordable Housing or planning obligation contributions
 - vii. That 'fire safety' is set out as a material planning consideration in the Prior Approval process for the first time with no reasoning as to why set out in the consultation. Traditionally, fire safety has been a Building Control issue.
- B. That the Council supports the following measures sets out for reasons set out in the report (together with any specific reservations):
- i. increased Permitted Development Rights for hospitals, schools, further education colleges and prisons subject to the continued provision of a suitable level of vehicular parking

That the Manager of Planning Policy, in consultation with the Economic Development Board Chairman, has delegated authority to submit a response to the Government based on the principles of the above recommendations and comments set out in this Report.

1 Background

- 1.1 On 3 December 2020, the Government published an online consultation '*Supporting Housing Delivery and Public Service Infrastructure*'¹. The consultation seeks views on a proposed new Permitted Development Right (PDR) for the change use from the new Class E (Commercial, Business and Service) use class to residential in an effort to "*support economic recovery, housing delivery and the regeneration of our high streets and town centres*". For reference, the new Class E use was introduced on 1 September 2020 and encompasses the old A1 retail, A2 financial and professional services, A3 restaurants and cafes, B1 business use classes and other uses such as gyms and creches.
- 1.2 The consultation also discusses measures to support public service infrastructure through the planning system, and the approach to simplifying and consolidating existing PDR following the recent changes to the Use Classes Order.
- 1.3 Comments are required to reach the Government by 28 January 2021.
- 1.4 For reference, the current Town and Country Planning (General Permitted Development) (England) Order 2015, SI 2015/596 (GPDO) already allows for the change of use from office to residential (Part 3, Class O of Schedule 2 to the GPDO), and from retail to residential (Part 3, Class M, GDPO). Under transitional provisions introduced in conjunction with the recent changes to the Town and Country Planning (Use Classes) Order (UCO), these PDR will continue to apply until 31 July 2021. These current rights for the change of use from office to residential would then be replaced by the proposed new PDR.

2 Report

- 2.1 The Government consultation is proposing to allow the change of use of any building within Class E to residential. It is not proposed that there will be any size limit on the

¹ <https://www.gov.uk/government/consultations/supporting-housing-delivery-and-public-service-infrastructure>

buildings that will be allowed to change use. This will allow for either the whole building or part of the building to be converted to residential use but, in order to qualify for this proposed PDR, the premises must have been in use within Use Class E on 1 September 2020. The consultation sets out that Class E use applies everywhere in all cases, not just on the high street or in wider town centres.

- 2.2 At this stage, the Government are proposing that this PDR will not apply in National Parks and Areas of Outstanding Natural Beauty (AONBs) and World Heritage Sites, as well as to buildings in Sites of Special Scientific Interest (SSSIs), or which are listed buildings or within their curtilage, sites that are (or contain) scheduled monuments, or are in safety hazard areas or military explosives storage areas, as well as sites subject to an agricultural tenancy.
- 2.3 However, the proposed extension of PDR would not exclude conservation areas, although there would be a requirement for Prior Approval of the impact of the loss of the ground floor use to residential in a conservation area.
- 2.4 Similar to the existing rights, there would be a range of matters requiring prior approval. In addition to flooding, transport impacts and contamination which are already assessed, additional considerations are proposed including:
- the impacts of noise from existing commercial premises on the intended occupiers of the development
 - fire safety (to ensure consideration and plans to mitigate risk to residents from fire)
 - impact on the intended occupiers from the introduction of residential use in an area the LPA considers is important for heavy industry and waste management

Development must also comply with the nationally prescribed space standards²

- 2.5 Whilst this is only a consultation at this time Officers do consider that this does show a direction of travel from the Government. It is the intention that, subject to the outcome of the consultation, the new PDR will come into effect from 1 August 2021.
- 2.6 The consultation paper also seeks views on proposals to amend existing PDR to allow schools, colleges and universities, hospitals and prisons to expand and adapt their buildings without the need for planning permission. The Government proposes to amend the rights to allow such uses to expand their facilities by up 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.
- 2.7 Finally, the Government consultation seeks views on the proposed approach to a much needed consolidation and simplification of PDR as a whole. The recent changes to the Use Classes Order (UCO) mean that there is a need to review references to use classes throughout the General Permitted Development Order (GPDO) and to update individual rights, and articles as appropriate.

2

3 **Response to the Consultation**

(A) Proposed PDR for the change of use from Commercial, Business and Service use (new Class E) to residential (Class C3)

- 3.1 The proposed PDR are deregulatory and would go significantly beyond existing rights, allowing former restaurants, indoor sports centres, and crèches etc. to benefit from the change of use to residential under permitted development for the first time. Essentially this would allow any buildings in the newly created “Class E” use class to be converted into homes without planning consent. This could have a number of significant negative impacts on the ability of the Council to appropriately plan Gosport sustainably through its adopted and emerging Local Plan in line with the NPPF Paragraph 15 which sets out (emphasis added):-

The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.

- 3.2 It is generally acknowledged that England has too many retail units especially in linear traditional high streets. It is widely accepted that the pandemic has accelerated on-gong retail trends with a significant increase of on-line shopping resulting in higher vacancy rates across the UK. There are often calls for such linear centres – such as Gosport’s – to be compressed taking away shops at the edges. However the most depressed areas of many centres are not at the outer edges, which are often nearest railways stations and car parks, but often at the centre where the big format stores like BHS, Marks and Spencer’s and soon Debenhams used to be. The peripheral areas in our towns contrast often have more existing mixed uses such as cafes and professional services which add to local vitality.
- 3.3 Gosport Town Centre lacks a large format department store and as such it could be argued the High Street resembles more a secondary area found on the periphery of a larger town or city centre primary retail zone with a mix of smaller branches of national retailers and local businesses. As such, Gosport Town Centre has, despite the challenges of the last year, more inherent resilience and flexibility than larger centres dependent on larger retailers.
- 3.4 However, the proposed PDR are most likely to be applied to smaller retail units, such as those found in Gosport Town Centre, Stoke Road and Lee-on-the-Solent Town Centre, where the costs of conversion to residential are lower. Moreover, the lack of any retail need test in the consultation – unlike the current Prior Approval A1 to C3 right – will likely mean that much needed shops in higher value areas will likely be converted to residential use with potentially disastrous consequences to local services and increasing the need to travel by private vehicle. Whilst Gosport has generally lower property prices than other areas in Hampshire this may not ensure that the Borough is immune from these potential negative consequences.
- 3.5 In effect what the proposed consultation could result in are a significant increase in dead frontages on the High Street and other centres in Gosport as a result of residential design which would need to take account of the absence of any defensible space (front gardens and boundary treatments) as the public highway would remain abutting the elevations of these dwellings. Dead frontages will further undermine the vitality in Town Centres and Officers consider it would make far more sense for PDR to apply to the upper floors and rear areas of existing town centre buildings than the ground floor frontages.

- 3.6 Officers consider that in light of these proposed PDR changes there is a question to be asked with the future role of Primary Frontages in Gosport's centres, as per Local Plan Policy LP28 (Uses Within Centres), but this should be conducted through the emerging Local Plan and subject to independent examination by the Planning Inspectorate.
- 3.7 The proposed PDR changes could also result in the loss of Employment Land resources with extent permission for light industry, research and development and offices. The NPPF (2019) sets out (Paragraph 80) with regard to local economies (emphasis added):
- Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.*
- 3.8 As reported to Economic Board in September 2020, Gosport has the lowest job density with 0.5 jobs per resident aged 16-64 in the SE of England and one of the lowest in England. This has a detrimental effect for out-commuting rates, congestion and air pollution. As Members know it has been a long term strategy of the Council to ensure that there is a sufficient amount of suitable employment land coming forward to increase the number of jobs available. This PDR proposal would undermine this strategic planning objective by prohibiting the redevelopment of redundant employment land with these uses for other job creating opportunities and hence further exacerbate this structural problem.
- 3.9 Essentially, Officers consider that the proposed PDR changes are clearly contrary to the NPPF in terms of both regenerating town centres and building a strong competitive economy, and that the planning of which should clearly be led through the Local Plan and supporting strategies such as the Heritage Action Zones (HAZ). The proposed laissez-faire approach ignores the importance of services and commercial employment to local communities which usually provide lower profit rates than speculative residential development. The proposed PDR are therefore inherently unsustainable.
- 3.10 The proposed PDR are also likely to have other impacts on the Borough. For example, the absence of any need to provide Affordable Housing and s106 contributions could lead to developers prioritising schemes through permitted development rather than land which would still require planning permission. This includes other brownfield sites and Local Plan allocation sites. In addition, the extent to which the use of the proposed PDR may be stymied by conditions on existing permissions is not acknowledged in the consultation.
- 3.11 Fire safety is also set out as a material planning consideration in the Prior Approval process for the first time with no reasoning as to why it is set out in the consultation. Traditionally, fire safety has been a Building Control issue and Planning Officers do not generally have the background to determine whether a building is acceptable in terms of fire safety or not.
- 3.12 The consultation states (Paragraph 20) that the Government wants to ensure that the new PDR allows for "appropriate residential development" and also ensures that there is "opportunity for local consideration" and for "the community to make representations". However, this is difficult to reconcile with the way the Prior Approval

process works. Where Prior Approval applies, the permission for development has already been granted by the development order. Unlike planning applications, Prior Approval applications can only be assessed on specific matters identified within the General Permitted Development Order. This can make the process difficult for an applicant, in particular in trying to ascertain the scope of the matters for consideration on e.g. how the implications in conservation areas and areas of heavy industry and waste management will be assessed; what will be the appropriate reference points for assessing impact? Lack of clarity on how the impact assessment will be made makes it equally difficult to make valid representations on an application.

- 3.13 Principally conceived for relatively non-complex and uncontroversial development it remains to be seen if the Prior Approval process is robust enough to be attractive to developers and effective to deliver larger and more controversial residential development, which could be enabled by the absence of size restrictions as per Paragraph 2.1 above. It is also unclear how this proposed approach addresses the requirement in Paragraph 150 of the NPPF for new development to be planned to avoid increased vulnerability from the impacts of climate change and reduce greenhouse gases through location, design and orientation.

(B) Expanding existing PDRs for educational establishments and hospitals, and extending them to prisons

- 3.14 The same consultation also proposes amending existing PDR to allow schools, colleges and universities, hospitals and prisons to expand by up to 25% of the footprint of the current buildings, or up to 250sqm, and reducing the consultation period from 21 days to 14 days on their applications. Councils would have to make decisions on these buildings as a priority and have a legal duty to decide major public service development applications within 10 weeks and prioritise these decisions over other applications for major development.
- 3.15 Gosport only receives planning applications for new infrastructure such as schools or medical facilities infrequently. Given that in principle new facilities could be provided to the local communities, no objection is raised to the proposed increased scope of the proposed PDR. However, it is noted that this approach ignores potentially relevant material considerations such as parking provision. It is therefore recommended that the supporting conditions for Class M of the GDPO include no material loss of vehicular parking.
- 3.16 In addition, an objection is raised to the Government prescribing that major applications for these uses should be 'prioritised' over other applications. This undermines the need for senior officers to determine what work should be prioritised if there are indeed competing pressures. These other major applications could be equally if not more so deserving of priority attention by the Council. This proposed approach could for example have a significant impact on the Council's rolling housing land supply if decisions on major residential schemes are delayed.

(C) Simplifying and consolidating existing PDRs following recent changes to the Use Class Order

- 3.17 In light of the changes to the Use Classes Order (UCO) introduced in September 2020, it has become necessary to review references to use classes throughout the GPDO, updating rights and articles as appropriate. The intention is to 'simplify and rationalise those existing rights' and bring forward the necessary amendments before 31 July 2020 (when the transitional provisions introduced by the new use class legislation will expire.)

This will include revoking rights which have now become unnecessary as a result of the introduction of Use Class E. An example provided is that there may be rights where the scope is broadened - to allow for the change of use to Class E, rather than an individual use within it; or a right may be broadened - providing for the change of use from a use falling within Class E.

- 3.18 Essentially, Officers consider that the proposed alignment of the UCO and PDR is necessary and it remains to be seen whether these changes would involve any other subsequent significant widening of the existing rights.

4 Next steps

- 4.1 The Government's consultation on proposed changes to PDR rights concludes on 28 January 2021. Appendix A sets out a draft response to this Government consultation, using the response template provided by the Government, which Officers propose to submit.
- 4.2 In addition, Officers will investigate the potential for introducing new Article 4 Directions in the Borough. Article 4 Directions allow the Local Planning Authority to withdraw specified PDR across a defined area. These areas could include town centres, retail parks and designated employment land. Officers will report back to Economic Board if it is determined that Article 4 Directives could be an expedient method of addressing the issues raised in this report.

5 Risk Assessment

- 5.1 The Council would like to make a representation to the Government on these proposals to set out its significant concerns which will have a number of implications for the planning functions of the Council.

Financial Services comments:	TBC
Legal Services comments:	TBC
Equality and Diversity	N/a –this is an external consultation
Climate change	This is an external consultation
Service Improvement Plan implications:	The proposals if implemented by the Government will affect the Development Management and Planning Policy functions of the Council through a number of policy and procedural changes.
Council Plan:	Proposals will have implications for the Council's planning services which help to develop the economy, enhance the environment, raise aspirations and empower residents. Proposals will also directly affect the delivery of services.
Risk Assessment:	See section 5
Background papers:	Supporting housing delivery and public service infrastructure, (Ministry of Housing, Communities & Local Government December 2020) https://www.gov.uk/government/consultations/supporting-housing-delivery-and-public-service-infrastructure
Appendices	Appendix 1: Draft response
Report author/ Lead	Robert Thain, Principal Planning Officer

Officer:	
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APPENDIX A: Draft Response – Gosport Borough Council

Supporting Housing Delivery & Public Service Infrastructure

About this Consultation

This consultation document and consultation process have been planned to adhere to the consultation principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation 2016, and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with the law and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. A full privacy notice is included on the next page.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

Please confirm you have read this page. *

Yes	<input checked="" type="checkbox"/>
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Privacy Notice

The following is to explain your rights and give you the information you are be entitled to under the data protection legislation.

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the data controller and contact details of our Data Protection Officer

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at dataprotection@communities.gov.uk.

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

Article 6(1)(e) of the General Data Protection Regulation 2016 (GDPR) provides that processing shall be lawful if processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.

Section 8(d) of the Data Protection Act 2018 further provides that this shall include processing of personal data that is necessary for the exercise of a function of the Crown, a Minister of the Crown or a government department.

The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Ministry of Housing, Communities and Local Government. The task is consulting on departmental policies or proposals or obtaining opinion data in order to develop good effective government policies in relation to planning.

4. With whom we will be sharing your personal data

We will not share your personal data with organisations outside of MHCLG without contacting you for your permission first.

5. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for 2 years from the closure of the consultation

6. Your rights, e.g. access, rectification, erasure

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have all or some of your data deleted or corrected
- d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

7. Storage of your personal data

We are using SmartSurvey to collect data for this consultation, so your information will be stored on their UK-based servers in the first instance. Your data will not be sent overseas. We have taken all necessary precautions to ensure that your data protection rights are not compromised by our use of third-party software.

If your submit information to this consultation using our third-party survey provider, it will be

moved to our secure government IT systems within six months of the consultation closing date (28 January 2021).

8. Your personal data will not be used for any automated decision making.

Please confirm you have read this page. *

Yes	<input checked="" type="checkbox"/>
-----	-------------------------------------

Respondent Details

This section of the survey asks for information about you and, if applicable, your organisation.

First name *

ROBERT

Last name *

THAIN

Email address

Robert.thain@gosport.gov.uk

Are you responding on behalf of an organisation or as an individual? *

Organisation	<input checked="" type="checkbox"/>
Individual	<input type="checkbox"/>

Organisation (if applicable)

GOSPORT BOROUGH COUNCIL

Position in organisation (if applicable)

PRINCIPAL PLANNING OFFICER

Please indicate whether you are replying to this consultation as a: *

Developer	<input type="checkbox"/>
Planning consultant	<input type="checkbox"/>
Construction company or builder	<input type="checkbox"/>
Local authority	<input checked="" type="checkbox"/>
Statutory consultee	<input type="checkbox"/>
Professional organisation	<input type="checkbox"/>
Lawyer	<input type="checkbox"/>
Charity or voluntary organisation	<input type="checkbox"/>
Town Council	<input type="checkbox"/>
Parish Council	<input type="checkbox"/>
Community group, including residents' associations	<input type="checkbox"/>
Private individual	<input type="checkbox"/>
Other (please specify):	<input type="checkbox"/>

Please indicate which sectors you work in / with (tick all that apply): *

Education section	
Health sector	
Prison sector	
None of the above	✓

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)?

Agree	
Disagree	✓
Don't know	

Please give your reasons:

Principally conceived for relatively non-complex and uncontroversial development it remains to be seen if the Prior Approval process is robust enough to be attractive to developers and effective to deliver larger and more controversial residential development, which could be enabled by the absence of size restrictions. The proposal could theoretically enable significantly sized major development whereby material considerations arise beyond the scope of the supporting criteria in the Prior Approval process.

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?

Agree	✓
Disagree	
Don't know	

Please give your reasons:

The absence of the proposed PDR in these areas is in conformity with the current iteration of the NPPF and hence should be expected to support the Government's own strategic planning aims.

Q2.2 Do you agree that the right should apply in conservation areas?

Agree	
Disagree	✓
Don't know	

Please give your reasons:

The proposed PDR, taking into account the proposed criteria to be addressed in the Prior Approval process, in Conservation Areas is contrary to Paragraphs 184 and 189 of the NPPF. The absence of any need for applicants to describe the significance of heritage assets affected is clearly a retrograde step in terms of supporting the concept of Conservation Areas.

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?

Agree	
Disagree	✓
Don't know	

Please give your reasons:

See above.

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?

Agree	
Disagree	✓
Don't know	

Please give your reasons:

Notwithstanding the Prior Approval criticism set out above, the proposed material considerations (flooding, transport, contamination etc.) are necessary.

However, fire safety is also set out as a material planning consideration in the Prior Approval process for the first time with no reasoning as to why it is set out in the consultation. Traditionally, fire safety has been a Building Control issue and Planning Officers do not generally have the background to determine whether a building is acceptable in terms of fire safety or not.

Q3.2 Are there any other planning matters that should be considered?

Yes	✓
No	
Don't know	

Please specify:

The lack of any retail need test in the consultation – unlike the current Prior Approval A1 to C3 right – will likely mean that much needed shops in higher value areas will likely be

converted to residential use with potentially disastrous consequences to local services and increasing the need to travel by private vehicle movements.

The consultation states (Paragraph 20) that the Government wants to ensure that the new PDR allows for "appropriate residential development" and also ensures that there is "opportunity for local consideration" and for "the community to make representations".

However, this is difficult to reconcile with the way the Prior Approval process works. Where Prior Approval applies, the permission for development has already been granted by the development order. Unlike planning applications, Prior Approval applications can only be assessed on specific matters identified within the GDPO. This can make the process difficult for an applicant, in particular in trying to ascertain the scope of the matters for consideration on e.g. how the implications in conservation areas and areas of heavy industry and waste management will be assessed; what will be the appropriate reference points for assessing impact? Lack of clarity on how the impact assessment will be made makes it equally difficult to make valid representations on an application.

Q4.1 Do you agree that the proposed new permitted development right to change use from Commercial, Business and Service (Class E) to residential (C3) should attract a fee per dwellinghouse?

Agree	✓
Disagree	
Don't know	

Please give your reasons:

Q4.2 If you agree there should be a fee per dwelling house, should this be set at £96 per dwellinghouse?

Yes	
No	
Don't know	✓

Please give your reasons:

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?

Yes	✓
No	

Please specify:

Rebuilding Town Centres and facilitating mixed-use sites requires genuine Local Plan-led planning in line with the National Planning Policy Framework (2019) Paragraph 15. The

proposed crude Permitted Development Rights clearly do not constitute an appropriate substitute for Local Plan-led planning.

In effect what the proposed consultation could result in are a significant increase in dead frontages on the High Street and other local and neighbourhood centres in Gosport as a result of residential design which would need to take account of the absence of any defensible space (front gardens and boundary treatments) as the public highway would remain abutting the elevations of these dwellings. Dead frontages are one of the main enemies of vitality in Town Centres and Officers consider it would make far more sense, if the Government were to continue to pursue this approach, for PDR to apply to the upper floors and rear areas of existing town centre buildings than their ground floor frontages.

The potential loss of designated Employment Land which benefits from former Class B1 uses (now in Class E) which includes Offices, Research and Development facilities and Light Industry, to residential use, which will directly undermine Gosport Borough Council's long standing strategy of retaining and enhancing its employment offer and job density (which is the lowest in South East England). This PDR proposal would undermine this strategic planning objective by prohibiting the redevelopment of redundant employment land with these uses for other job creating opportunities and hence further exacerbate this structural problem.

The proposed Permitted Development Rights are likely to accelerate the loss of retail and quasi-retail units where greater value can be extracted by residential conversion, and potentially driving investment away from residential development proposals which still require planning permission. Whilst no changes in planning in completely irreversible the proposed PDR changes would be good as permanent in terms of the loss of retail and employment land capacity.

The extent to which the use of the proposed Permitted Development Rights may be stymied by conditions on existing permissions is not acknowledged in the consultation.

There is also an inherent tension between effective community engagement and the use of the Prior Approval process for major development proposals (see response to Q.14)

In summary, Gosport Borough Council considers that the proposed PDR changes are clearly contrary to the NPPF in terms of both regenerating town centres and building a strong competitive economy, and that the planning of which should clearly be led through the Local Plan and supporting strategies such as the Heritage Action Zones (HAZ) rather than a laissez-faire approach which ignores the importance to local communities of services and commercial employment which usually provide lower profit rates than speculative residential development.

The proposed PDR are therefore inherently unsustainable and pose an existential threat to good planning and high quality local environments.

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?

Yes	✓
No	
Don't know	

If so, please give your reasons:

Impacts can be both positive, negative or a mix of both. As such, this is a poorly framed question which can, and is, answered through Q5 above.

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?

Yes	✓
No	
Don't know	

If so, please give your reasons:

Permitted Development residential conversions would also bring in no Affordable Housing or planning obligation contributions.

This – particularly lack of the Affordable Housing - would clearly impact on the most disadvantaged in society whether they have a “protected characteristic” or not.

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 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 larger?

Agree	✓
Disagree	
Don't know	

Please give your reasons:

Given that in principle new facilities could be provided to the local communities, no objection is raised to the proposed increased scope of the proposed PDR.

However, it is noted that this approach ignores potentially relevant material considerations such as parking provision. It is therefore recommended that the supporting conditions for Class M of the GDPO include no material loss of vehicular parking.

Q7.2 Do you agree that the right be amended to allow the height limit to be raised from 5 metres to 6?

Agree	✓
Disagree	
Don't know	

Please give your reasons:

The difference between 5 metres and 6 metres is not likely to be that significant in most examples.

Q7.3 Is there any evidence to support an increase above 6 metres?

Yes	
No	✓
Don't know	

Please specify:

The Government should supply this evidence.

Q7.4 Do you agree that prisons should benefit from the same right to expand or add additional buildings?

Agree	✓
Disagree	
Don't know	

Please give your reasons:

There may be a need in the future for increased prison capacity.

Q8 Do you have any other comments about the permitted development rights for schools, colleges, universities, hospitals and prisons?

Yes	
No	✓

Please specify:

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?

Yes	✓
No	
Don't know	

If so, please give your reasons:

The impact could, again, be negative, positive or a mix of both. This could include impacts on vehicular parking. As such, Gosport Borough Council's support is conditional on the supporting conditions for Class M of the GDPO including no material loss of vehicular parking.

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?

Yes	✓
No	
Don't know	

If so, please give your reasons:

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?

Yes	✓
No	
Don't know	

If so, please give your reasons:

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?

Yes	✓
No	
Don't know	

If so, please give your reasons:

*

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)?

Yes	✓
No	

Please give your reasons:

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?

Yes	✓
No	

If not, please give your reasons as well as any suggested alternatives:

Q13 Do you agree the determination period for applications falling within the scope of the modified process should be reduced to 10 weeks?

Yes	
No	✓

Please give your reasons:

An objection is raised to the Government prescribing that major applications for these uses should be 'prioritised' over other applications. This undermines the need for senior officers to determine what work should be prioritised if there are indeed competing pressures. Other major applications could be equally if not more so deserving of priority attention by the Council. This proposed approach could for example have a significant impact on the

Council's rolling housing land supply if decisions on major residential schemes are delayed.

Q14 Do you agree the minimum consultation / publicity period should be reduced to 14 days?

Yes	
No	✓

Please give your reasons:

Paragraph 63 of the consultation states:-

We believe it would be appropriate to reduce the minimum period for representations from 21 days to 14 days (maintaining the current requirement to add extra days if the consultation period includes bank or public holidays) as we expect that many of these developments will have already been subject to extensive prior engagement with the local community. This 14-day period is the current minimum consultation period for applications for Permission in Principle

Firstly, on what evidence does the Government expect that these developments will have already been subject to extensive prior engagement. This is clearly just an assumption.

Secondly, most people take 14 day holidays. If the holiday is over the 14 day period they could miss any opportunity to respond. A 21 day consultation period gives people a more realistic opportunity to respond.

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 anticipates making a decision? (We propose that this notification should take place no later than 8 weeks after the application is validated by the planning authority.)

Yes	
No	✓

Please give your reasons:

Administrative micro-management.

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?

Yes	
No	✓

Please give your reasons:

The requirement should be on the Applicant – particularly if they are other Local Authorities or

parts of the Public Sector – to engage with the Local Planning Authority through a pre-application advice submission. The Government appears to be suggesting that it is the role of Local Planning Authorities to orchestrate the development proposals of other bodies rather than advise and then determine.

Q17.1 Do you have any comments on the other matters set out in the consultation document, including post-permission matters, guidance and planning fees?

Yes	
No	✓

Please specify:

Q17.2 Do you have any other suggestions on how these priority public service infrastructure projects should be prioritised within the planning system?

Yes	
No	✓

Please specify:

Q18 Do you think that the proposed amendments to the planning applications process for public service infrastructure projects could give rise to any impacts on people who share a protected characteristic?

Yes	
No	✓

If so, please give your reasons:

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?

Agree	✓
Disagree	
Don't know	

Please give your reasons:

Q19.2 Are there any additional issues that we should consider?

Yes	✓
No	

Please specify:

To re-iterate, the main objections GBC has with the consultation document are:-

- The direction of travel is clearly contrary to national planning guidance in terms of the primacy of the local plan and ability of Local Planning Authorities to lead on developing centre and regeneration strategies
- The negative impact on local people and communities of losing retail, other town centre uses and potentially other facilities for the marginal benefit of an increase in the availability of small housing
- The quality of housing is likely to be moderate to poor and the Prior Approval process is inadequate to deal with major development
- Negative impact on Conservation Areas

Q20 Do you agree think 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?

Agree	
Disagree	✓
Don't know	

Please give your reasons:

It should be limited to those uses commonly found on High Street frontages i.e. within former Class A1-A4 uses.

Q21 Do you agree the broad approach to be applied in respect of category 4 outlined in paragraph 76 of the consultation document?

Agree	✓
Disagree	
Don't know	

Please give your reasons:

Q22 Do you have any other comments about the consolidation and simplification of existing permitted development rights?

Yes	
No	✓

Please specify:

End of survey

You have reached the end of the consultation questions. Thank you for taking the time to complete them and for sharing your views. Please note that you will not receive an automated email to confirm that your response has been submitted.

After the consultation closes on 28 January 2021 we will consider the responses we have received and publish a response, in due course.

Agenda Item 9

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

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