



**PLANNING COMMITTEE
19 SEPTEMBER 2023**

REPORT TITLE:	Proposed Changes to Permitted Development Rights (July 2023)
REPORT OF:	Phil Drane, Director of Place

REPORT SUMMARY

The Government (Department for Levelling Up, Housing and Communities) is proposing a number of changes with the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended to provide greater flexibility to encourage further residential development. Changes to the right are proposed for the following areas:

- a) Changes to certain permitted development rights that allow for the change of use to dwellinghouses.
- b) Changes to certain permitted development rights that allow agricultural diversification and development on agricultural units.
- c) Changes to certain permitted development rights that allow for non-domestic extensions and the erection of new industrial and warehouse buildings.
- d) Changes to the permitted development right that allows for the temporary use of land to allow markets to operate for more days.
- e) Changes to the existing permitted development right that allows for the erection, extension or alteration of schools, colleges, universities, hospitals, and closed prisons to also apply to open prisons.
- f) The application of local design codes to certain permitted development rights.

The council's proposed response to the consultation is focused on the sections of the right that will likely have an impact on Brentwood borough (Appendix A). General support for some of the changes is proposed. However, concerns are

raised on the potential environmental impacts, in particular for arable land and Green Belt.

RECOMMENDATION

R1. Approve the response to the consultation on Permitted Development Rights, as set out in Appendix A.

SUPPORTING INFORMATION

1.0 REASON FOR RECOMMENDATION

- 1.1 The Government (Department for Levelling Up, Housing and Communities) is proposing a number of changes with the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended to provide greater flexibility to encourage further residential development. The changes proposed in this consultation will have an impact on changes in use classes to help increase residential development allowed through permitted development rights. Concerns have been raised regarding possible loss of businesses along the high street and environmental impacts on agricultural sites where there is typically good quality arable land or designated as green belt.
- 1.2 The consultation response has been limited to those changes that are likely to have an impact within the borough, including the following areas:
- a) New proposals for local planning authorities to produce a design code on a spatial scale to manage some of the proposed changes in the right;
 - b) Greater flexibility for commercial, business and services uses to change to residential;
 - c) New proposal for hotels and boarding houses to change to residential;
 - d) Increased flexibility for betting offices and hot food takeaway to change to residential;
 - e) More relaxed restrictions to allow agricultural buildings to change to residential;

- f) New proposal to allow extensions of rural buildings;
- g) Inclusion of former agricultural buildings no longer on an agricultural unit to benefit from the right;
- h) Mix use developments included within the right;
- i) Possible changes to the prior notification / prior approval required;
- j) Increased extension of floorspace area proposed for businesses, industrial and warehouses; and
- k) Increased number of temporary market days permitted under the right

New design code requirements

- 1.3 To obtain some control over the type and style of development that comes forward as part of the proposed changes to the Permitted Development Right, the Levelling Up and Regeneration Bill is seeking to require local planning authorities to prepare a Design Code at the spatial scale. It is proposed that this will provide developers with further guidance and provide local authorities with greater confidence that development delivered under a permitted development right aligns with the design expectations of the local area. It is expected that local planning authorities will adopt a Supplementary Planning Document (SPD) or include policy requirements on design codes within the local plan. However, the consultation does not address what, if any, transitional arrangements will be put in place to prevent poor quality designed homes from coming forward between when the proposed changes to the permitted development right come into effect and the time it will take local planning authorities to adopt an SPD or local plan.

Commercial, business and service use to residential

- 1.4 The permitted development right currently allows up to 1,500 square metres of Commercial, Business and Service use to change use to residential and the consultation is seeking views on whether this could be doubled or the floorspace requirement removed all together to promote further residential growth. The council has raised concerns that by doubling the amount of floorspace or removing this restriction altogether could have a negative impact on the high street and town and village centres. Therefore, the council has objected to the proposed changes.
- 1.5 The existing permitted development right requires that the premises be vacant for a continuous period of at least 3-months immediately prior to the date of

the application for prior approval. This was introduced to safeguard against businesses being displaced. However, the Department for Levelling Up is proposing to remove this requirement to prevent buildings from being left vacant longer than necessary. The council's consultation response objects to this proposed change as otherwise thriving businesses may be forced to vacate the premises and struggle to find an appropriate, alternative location. This could lead to businesses having no choice but to close.

Hotel and boarding houses to residential

- 1.6 The proposed permitted development rights are seeking to include hotel and boarding houses to benefit from this right. There is general support for this, however it is proposed that the council request that two key restrictions be included:
- a) That there is a clear indication that the existing use is no longer financially viable and every effort reasonable has been made to keep the hotel / boarding house open for a minimum of three months before being able to benefit from this right; and
 - b) Where the number of new dwellings meets the National Planning Policy Framework (NPPF) definition of a 'major development' (10 or more residential dwellings), the development must meet the minimum policy requirement for affordable housing.

Betting offices and hot food takeaways to residential

- 1.7 Business such as betting offices and hot food takeaways are currently allowed to apply for change of use under the permitted development right, provided the floorspace is no more than 150 square metres. The new proposal is seeking to double this from 150 to 300 square metres or remove the maximum allowable floorspace requirement altogether. The council objected to this proposed change due to the potential negative impact this could have on the high street and town and village centres.
- 1.8 The proposal also is seeking to introduce a two-year rolling requirement for betting offices and hot food takeaways to be in business for before being able to benefit from this right. This is generally supported as it provides consistency throughout the regulations.

Agricultural buildings to residential and extensions of agricultural buildings

- 1.9 An existing permitted development right allows agricultural buildings to change to residential use provided it meets a number of requirements as set out in the existing regulations. The current consultation is proposing to make the following changes:
- a) Provide a single maximum floorspace limit to either 100 or 150 square metres;
 - b) Doubling the number of new homes that can be provided from 5 new dwelling to 10 new dwellings; and
 - c) Introduce an overall maximum of 1,000 square metre floorspace changing use, that would include any previously developed under Use Class Q.
- 1.10 Agricultural buildings are typically located on high quality arable land, green belt or near environmentally sensitive habitats. Therefore, the council's consultation response objects to these changes due to concerns these changes will have from an environmental perspective.
- 1.11 At present the permitted development right for the change of use from agricultural building to residential does not allow for any increase to the external dimensions of the original building. The consultation proposes an amendment to allow for rear extensions to the original building during the change of use. It is proposed that extensions would need to be sited to the rear of the original agricultural building with a maximum depth of 4 metres, be single storey in height, could extend the entire width of the existing rear elevation, and would only be permitted where the land has previously been developed. This change is given general support, provided that the area being developed does not result in any environmental harm and the extension allows for the dwelling to meet the most up to date minimum space standards.

Former agricultural buildings no longer on an agricultural unit

- 1.12 Buildings that were once used for agricultural purposes but are no longer on established agricultural units¹ do not currently benefit from the agricultural buildings to dwellinghouses right. The proposal is seeking to extend this right

¹ An agricultural unit is described as 'agricultural land which is occupied as a unit for the purposes of agriculture, including – (a) any dwelling or other building on that land occupied for the purpose of farming the land by the person who occupies the unit, or (b) any dwelling on that land occupied by a farmworker'.

to agricultural buildings no longer on agricultural units. The same concerns regarding the impacts on high quality arable land, Green Belt, and proximity to sensitive environments as raised above were included in the response.

Allowing mixed uses

- 1.13 The Government is proposing a change to provide more flexibility around the mix of uses that are allowed to operate under the right. At present, while the right allows for change of use to one of the permitted uses and subsequently to another, it only provides for one use at a time. This change would apply to all land uses, including agricultural buildings. Furthermore, the proposal is seeking to double the area from 500 square metres of floorspace to 1,000 square metres of floorspace. Although there is general support in encouraging mix use development, especially where there are complimentary uses on-site, the council objects to the proposal to permit 1,000 square metres of floor space, in particular on agricultural sites where there is likely to be a negative environmental impact as a result of development. The council suggests that if this requirement was to be kept restrictions should be included to prevent this from occurring on land identified as Green Belt and / or other environmental sensitive land uses.

Prior Notification / Prior Approval

- 1.14 The consultation is seeking view on whether the current requirements for change of use of those developments that are 150 square metres or less should be required to continue to obtain prior approval on transport and highway impacts, noise impacts, contamination risks, and flooding risks. It is the council's view that this requirement should remain to ensure the development is located in safe locations. An additional requirement should be included to address potential environmental harm to ensure those sites that could have a detrimental environmental impact cannot benefit from this right.

Greater flexibility to extend for businesses on the high street, industrial and warehouses

- 1.15 Changes to the maximum allowable floorspace are proposed to double for both businesses located on the high street and industrial and warehouses. Permitting businesses on the high street to extend 100% or 200 square metres of floorspace (whichever is lesser) is supported in principle provided there is a restriction in place to ensure this right can only be used for business use only so that businesses have the ability to grow and the right is not misused by shortly after the extension is undertaken its converted to residential.

- 1.16 Concerns regarding industrial and warehouse for non-protected areas to be extended from 1,000 square metres of floorspace or a 50% increase over the original building (whichever is lesser) to 1,500 square metres of floorspace or a 75% increase over the original building (whichever is lesser) were raised due to these type of businesses being located in the green belt. Therefore, the council has objected to this development type being changed to permit a greater floorspace extension.

Temporary use of land for markets

- 1.17 The current permitted development right allows for temporary use of land to be used for markets up to 14-days per annum, in addition to those held by the local authority. The consultation document proposes to increase the number of days permitted to be used for markets. However, does not state the amount of proposed increase by number of allowable days per annum. The council is in support of increasing the number of days permitted as markets play a key role in promoting local growth, create more resilient and thriving centres and supports local businesses.

2.0 BACKGROUND INFORMATION

- 2.1 The Town and Country Planning (General Permitted Development)(England) Order was first introduced in 2015. The last time significant changes were made to the order was in 2021. The Permitted Development Right allows certain types of developments to come forward without planning permission.

3.0 OTHER OPTIONS CONSIDERED

- 3.1 None

4.0 RELEVANT RISKS

- 4.1 None

5.0 ENGAGEMENT/CONSULTATION

- 5.1 The consultation on the Town and Country Planning (General Permitted Development)(England) Order 2015 is open from 24 July until 25 September 2023.

6.0 FINANCIAL IMPLICATIONS

Name & Title: Tim Willis, Director – Resources (Section 151 Officer)
Tel & Email: 01277 312500 / tim.willis@brentwood.rochford.gov.uk

6.1 There are no direct financial implications arising from this report.

7.0 LEGAL/GOVERNANCE IMPLICATIONS

Name & Title: Claire Mayhew, Acting Joint Director – People & Governance (Monitoring Officer)

Tel & Email: 01277 312500 / claire.mayhew@brentwood.rochford.gov.uk

7.1 There are no direct legal implications arising from this report.

8.0 EQUALITY & HEALTH IMPLICATIONS

Name & Title: Kim Anderson, Corporate Manager - Communities, Leisure and Health

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8.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful;
- b) Advance equality of opportunity between people who share a protected characteristic and those who do not; and
- c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

8.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for b) or c) although it is relevant for a).

8.3 The proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

9.0 ECONOMIC IMPLICATIONS

Name & Title: Phil Drane, Director - Place

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9.1 The additional flexibility outlined in the Permitted Development Rights proposed in the consultation would impact upon how the council manages development in the borough. The proposal is expected to assist with growth nationally, although at present it is not possible to identify specific local economic implications.

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APPENDICES

- Appendix A: Brentwood Borough Council Response to the Department for Levelling Up, Housing and Communities – Proposed Changes to the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended

BACKGROUND PAPERS

- The Department for Levelling Up, Housing and Communities – Permitted Development Rights Consultation: [Permitted development rights - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
None	