

# **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.**

September 2023

1. Brentwood Borough Council notes that the Department for Levelling Up 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. Although the Council is supportive of encouraging unused and vacant buildings to be brought back into use and provide residential accommodation, there are concerns that the existing proposal will have a negative impact on the environment and too much flexibility has been proposed. This response is limited to those sections of the proposal that are likely to have an impact on Brentwood Borough Council, which is a green belt authority.

## **Design Code on a Spatial Scale**

2. In order to obtain some control over the type and style of development that comes forward as part of these proposed changes, the Department for 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. Although the Council supports this in principal concerns are raised as to how some of these developments will take place prior to the local authority being able to formally adopt a design code following the implementation of the right. It is highly unlikely local planning authorities will be able to have an SPD or Local Plan in place that will address the design codes on a spatial scale that aligns with the timing of the updated right coming into effect. This leaves a gap where poor quality designed developments could be permitted through the Permitted Development Right. Further consideration is needed for the transitional arrangements to prevent poorly designed developments coming forward while SPD's or Local Plans are being updated.

## **Commercial, Business and Service Use to Residential**

3. 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. Although the Council recognises the benefits of allowing businesses that are no longer viable to change use to residential, concerns are raised as to the negative impact on the high streets, town centres, and village centres, by further reducing the employment opportunities for local residents and commercial competition. Doubling the permitted development right or removing the limit all together will only encourage the disbandment or displacement of business in the local area. It is the Council's view that there should not be any changes to the current permitted development rights regarding amount of floorspace that benefits from this right.

4. 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. Brentwood Borough Council disagrees with this view and believes that the requirement for a building to be vacant for a minimum of three months helps to protect businesses from being displaced or forced out of business due to not being able to find another suitable location to operate their business from. Therefore, the Council objects to this proposed change.

#### **Hotel or Boarding House to Residential**

5. Brentwood Borough Council generally supports the proposal of permitting hotels, boarding houses or guest houses (Use Class C1) to dwellinghouses, provided that there is a clear indication that the existing use is no longer financially viable and every effort has been made to keep the hotel, boarding house or guest house open for a minimum of three months, similar to the requirements for other forms of businesses, before being able to change to residential. Without this restriction, the closure of hotels facilities could have a negative impact on local tourism, high streets, and employment.
6. Furthermore, it is likely that the number of residential units that could be accommodated on a hotel or boarding house site would meet the NPPF definition of major development (10 or more residential units). Therefore, a requirement should be included in the right that in order to benefit from this right the development must be policy compliance with the appropriate level of affordable homes based on the local planning authority's Local Plan.

#### **Betting Offices and Hot Food Takeaways to Residential**

7. Businesses such as betting shops 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 floorspace altogether. Although the Council recognises some of the benefits in permitting betting shops and hot food takeaways to be converted to residential, concerns are raised as to the negative impact removing the maximum floorspace could have on the high street, town centres, and village centres. These types of shops / services typically play a key role in encouraging footfall to the town and village centres. By doubling or removing the maximum floorspace requirement could therefore have a detrimental effect on the normal high street activities and reduced footfall. Therefore, it is the Council's view that no changes should be made to this permitted development right.

8. The regulations require that a betting or hot food takeaway be in business for a minimum of two years in order to benefit from the permitted development rights. The consultation proposes introducing a two year rolling requirement which requires the building to have been in that use for a continuous period of at least two years prior to the application of prior approval. This is the same approach taken in permitted development right for the change of use from commercial, business, and service uses to residential (Use Class MA of Part 3). The Council supports this approach as it provides consistency throughout the regulations.

### **Agriculture Buildings to Dwellinghouses**

9. An existing permitted development right (Class Q of Part 3) 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 remove some of these restrictions and replace it with a single maximum floorspace limit of either 100 or 150 square metres per home. The proposal is also proposing to increase the maximum number of homes that can be developed from 5 to 10. Finally, the consultation is proposing to introduce an overall maximum of 1,000 square metre floorspace changing use, that would include any previously developed under Use Class Q. Concerns are raised to the impact of increasing the size and number of new homes that can be built as part of this proposal. Agricultural buildings are typically located in areas where there is high quality arable land and / or designated as green belt. Therefore, the Council objects to the proposed changes regarding agricultural buildings to dwellings due to the potential environmental harm this type of change of use is likely to cause.

### **Extensions of Rural Buildings**

10. At present, the permitted development right for the change of use from agricultural buildings 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. The Council is in general support of this requirement provided that the area being developed does not result in any environmental harm.

11. In addition to the above changes to permitting extensions of rural buildings the regulations are seeking to introduce an existing minimum floorspace for 37 square metres to benefit from the right. This proposed size aligns with the minimum threshold in the nationally described space standards. This is generally supported but would suggest that inclusion that the development must meet the most up to date space standards to prevent overcrowding and unsuitable living spaces if the national space standards are changed in the future.

### **Former Agricultural Buildings no longer on an Agricultural Unit**

12. Buildings that were once used for agricultural purposes but are no longer on established agricultural units do not currently benefit from the agricultural buildings to dwellinghouses right (Class Q of Part 3). The proposal is seeking to extend this right to agricultural buildings no longer on agricultural units. The Council raises similar concerns to permitting agricultural building to convert to residential due to the potential negative environmental impacts this proposal could have on arable land, green belt, and other environmental sensitive landscapes. Therefore, the Council objects to this proposed change to the right.

### **Highway Access**

13. Brentwood Borough Council is not the Highway Authority, however the Council, does agree that all existing buildings that are covered by the permitted development rights must be required to have existing suitable access to a public highway to benefit from this right. Further comments regarding what would be considered suitable highway access are deferred to Essex County Council, the highway authority.

### **Allowing Mix Use – Amount of Floorspace that can Change Use**

14. The Department of Levelling Up 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 the 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**

15. 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.

### **Supporting Businesses and the High Street through Greater Flexibility**

16. To provide further flexibility and certainty to a range of businesses, changes to the right are proposed to change the existing floorspace limit of extensions or alterations be increased from 50% or 100 square metres of floorspace (whichever is the lesser) to 100% or 200 square metres of floorspace (whichever is the lesser). In principle this new requirement is supported provided that there is a restriction preventing this space then being converted into residential and is used for business spaces only. Without a restriction that prevents the space being converted to residential shortly after the extension has been completed will negatively impact on a business's ability to grow. This could lead to the misuse of this part of the right. Furthermore, further restrictions are needed to ensure this part of the right only applies to those businesses located in high streets, town and village centres on previously developed land only to prevent inappropriate development in the green belt.

### **Industrial and Warehouse Extensions**

17. Similarly, to the proposal to double the allowable floorspace for business and high streets, the consultation includes a proposal to permit industrial and warehouse extensions to extend the current floorspace thresholds in non-

protected areas to be increased 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). Although the Council acknowledges that some industrial and warehouses require space to grow their business operations, typically these businesses are located within the green belt and near other environmentally sensitive parcels of land. Therefore, the Council objects to this change due to the potential environmental harm that could be caused by permitting this.

### **Markets – Temporary Use of Land**

18. The Council agrees that markets are one of the tools which can boost local growth, create more resilient and thriving centres and support local businesses. At present the right permits 14 calendar days a year for markets (in addition to those held by the local authority). There is no specific number of days proposed in the consultation, other than to state this to be increased. The Council would be in support of increasing the number of market days beyond the current right of 14 days.