

<b>Report to:</b>	<b>BOARD</b>
<b>Date:</b>	20 January 2021
<b>Executive Member:</b>	Cllr Gerald Cooney, Executive Member (Housing, Planning and Employment)
<b>Reporting Officer:</b>	Jayne Traverse, Director of Growth
<b>Subject:</b>	<b>PLANNING REFORM CONSULTATION - SUPPORTING HOUSING DELIVERY AND PUBLIC SERVICE INFRASTRUCTURE</b>
<b>Report Summary:</b>	This report covers the proposed response to the "Supporting Housing Delivery and Public Service Infrastructure" published for consultation by the Government which closes on 28 January 2021 and is intended to ensure we represent the Council's position.
<b>Recommendations:</b>	To approve or comment otherwise on the draft consultation to the Government's Supporting Housing Delivery and Public Service Infrastructure consultation set out in <b>Appendix 1</b> to meet the statutory consultation deadline.
<b>Corporate Plan:</b>	To ensure that we are able to deliver corporate plan in the event of any legal landscape.
<b>Policy Implications:</b>	This matter is at consultation stage only.
<b>Financial Implications: (Authorised by the statutory Section 151 Officer &amp; Chief Finance Officer)</b>	<p>The report sets out the Council's proposed response to the consultation.</p> <p>It is envisaged that there may be potential implications on planning related fee levels and future levels of both council tax and business rates receivable. However, the related impact cannot be quantified at this stage until the outcome of the consultation is known.</p> <p>These will be evaluated and reported to Members at a later date if appropriate.</p>
<b>Legal Implications: (Authorised by the Borough Solicitor)</b>	<p>It is critical that the Council engages in this consultation in order that it can take the opportunity to help shape housing delivery and public service infrastructure as both are critical to the Council's delivery for the residents of Tameside. It should be noted that the Council's constitution states under Part 3b - Cabinet Positions - Portfolios that:</p> <p>Each Executive Member is responsible for:.....</p> <p>Para 23 To submit to the Executive Cabinet:-o All responses to consultation papers, relating to these Terms of Reference, issued by the Government and outside organisations.</p>
<b>Risk Management:</b>	Not to submit a response to the Government's consultation which we do not believe would serve our residents' interests.
<b>Background Information:</b>	<p>The background papers relating to this report can be inspected by contacting the report author, Martyn Leigh, Development Manager, Planning, by</p> <p>Telephone: 0161 342 3456</p> <p>e-mail: <a href="mailto:martyn.leigh@tameside.gov.uk">martyn.leigh@tameside.gov.uk</a></p>

## **1. INTRODUCTION**

1.1 The Government's consultation on supporting housing delivery and public service infrastructure is a technical consultation which seeks views on proposals for:

- A new permitted development right for a change of use to residential to create new homes;
- Measures to provide public service infrastructure more quickly through expanded permitted development rights and a new streamlined planning application process for hospitals, schools and prisons; and,
- The approach to simplifying and consolidating existing permitted development rights following changes to the Use Classes Order.

1.2 The consultation seeks views on any potential impacts on business, local planning authorities and communities from these measures. Through a series of focussed questions it provides the opportunity for comments to be submitted by 28 January 2021 and the proposed responses are from Tameside Council are as set out in the attached Appendix 1.

1.3 A link to the consultation, including the proposals which are being commented on, can be found here:

[Supporting housing delivery and public service infrastructure - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/supporting-housing-delivery-and-public-service-infrastructure)

## **2. IMPLICATIONS OF THE GOVERNMENT'S PROPOSED PLANNING REFORMS**

2.1 Tameside Council is objecting to many aspects of the proposals by Central Government set out in its consultation, on the grounds that they will reduce public participation in the planning process, resulting in less control over where residential development is located, threaten the vitality and viability of high streets and town centres. They would also add further complexity to existing permitted development rights by enabling more development to be carried out without planning permission and public engagement.

2.2 Ultimately what the Government's proposals will mean for communities and businesses of Tameside will not be able to express their views on those developments which no longer require the need for a planning application under these reforms. Where prior approval will be needed, this will limit the scope of what can be taken into account when the Council is considering objections from the public and the community. Matters that the public generally engage on when making representation on planning applications are included below. These will no longer be able to be taken into account if the Government proceeds with the proposals.

- Provision of waste bins;
- The requirement to provide parking spaces;
- Overlooking from new windows;
- Quality of design and materials for any external alterations;
- Safe and secure access being provided where a property is being converted to residential;
- No opportunity to make representation to some extensions to schools and hospitals as under the proposals these would not require planning permission.

## **3. RECOMMENDATIONS**

3.1 As set out at the front of this report.

# APPENDIX 1

## Responses to Consultation Questions

The supporting housing delivery and public service infrastructure consultation contains a number of focussed technical questions and the Council's proposed response to each is set out below:

**Question 1: 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)? Please give your reasons.**

Disagree. There is already greater flexibility provided by the recently created Use Class E and the proposals provide opportunities to create new homes.

In the context of town centre locations this could be advantageous in bringing vacant buildings back into use and providing homes in sustainable locations in close proximity to transport links and commercial services. This would therefore help support the overall vibrancy and vitality of the centre in question.

Dependent upon the uptake of this permitted development right it could lead to a substantial loss of economic generating uses which would be to the detriment to local job provision. Furthermore, Class E uses would capture a number of large buildings, particularly in out of centre locations which might be inappropriate and not sustainable.

It is considered that a full planning application should be required for changes of use of buildings benefiting from Class E uses to provide new homes.

**Question 2.1 – 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? Please give your reasons.**

Agree. The right should not apply in such areas given the environmental, social and economic sensitivities of such locations.

**Question 2.2 – Do you agree that the right should apply in conservation areas? Please give your reasons.**

Disagree. Conservation areas are designated in recognition of their unique historic character and environmental quality. Commercial uses are often and important integral part of this established character and the provision and despite the fact that prior approval for the loss of retail frontage could be applied the character would nevertheless be eroded by such development which would have cumulative impacts.

**Question 2.3 – 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? Please give your reasons.**

Disagree. It is maintained that the provision should not apply in conservation areas. It is considered the prior approval should apply in all instances where the loss of ground floor commercial use is proposed.

However, if the provision is to apply in conservation areas only, it is important that the loss of ground floor uses to residential uses is properly considered to understand the visual impact of such proposals on the character of the conservation area. This would include understanding the impact of loss of shop frontages and advertisements for instance that can contribute to character of local environmental quality.

**Question 3.1 – 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? Please give your reasons.**

Agree. Any proposals delivered through this proposed right should include all those prior approval subject matters listed in paragraph 21. This is to ensure all material matters are fully considered. However, it omits to require reference to minimum amenity standards for future occupiers which would undermine the objectives to provide high quality homes. Therefore, this should be included.

**Question 3.2 – Are there any other planning matters that should be considered?**

It is considered that prior approval should be required for any alterations to the exterior of the building and refuse/recycling storage in order to accommodate the proposed use. It should also require contributions to be secured towards essential infrastructure through Section 106 agreements. Furthermore, the provision of homes through this proposed right would be market-led and not addressing affordable housing requirements or general housing need.

The following are important matters that the public raise when the Council is processing planning applications. The proposed changes to PD rights would take away their rights to comment and engage on these and accordingly the Council objects to changes in the planning system which prohibits residents and businesses from having a view on these matters. These include, for example:

- Provision of waste bins;
- The requirement to provide parking spaces;
- Overlooking from new windows;
- Quality of design and materials for any external alterations;
- Safe and secure access being provided where a property is being converted to residential;
- No opportunity to make representation to some extensions to schools and hospitals as under the proposals these would not require planning permission.

**Question 4.1 – 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? Please give your reasons.**

Agree, to reflect the costs incurred in the assessment of the number of prior approval criteria involved.

**Question 4.2 – If you agree that there should be a fee per dwellinghouse, should this be set at £96 per household? Please give your reasons.**

There should be a fee applied per dwellinghouse which should be comparable to the planning application fee that would otherwise be applied to a full planning application.

**Question 5 – Do you have any other comments on the proposed right for the change of use from Commercial, Business and Service use class to residential? Please specify.**

A full planning application is considered to remain the more appropriate process to assess proposals for a change of use which would require assessment against evidenced housing needs. Whilst there is recognition of the benefits associated with a simpler process this should not be at the overall expense of standards of new homes and appropriateness of location.

**Question 6.1 – Do you think 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? If so, please give your reasons.**

The proposed right will inevitably affect business, communities and local planning authorities.

The right would assist in the provision of new homes and utilise buildings no longer required for commercial uses. However, it undermines the ability for local planning authorities to influence the location and overall quality of accommodation, and to align it to evidenced needs rather than market-led demand.

Loss of employment uses could undermine the viability and vitality of town centres through loss of footfall and linked trips.

Social infrastructure requirements could be stretched beyond capacity with the potential for limited opportunities for additional capacity in the locality.

The use of the provision would change the character and identity of areas and be largely informed by commercial decisions rather than based on community need.

Paragraph 28 of the consultation states that local planning authorities would benefit from reduced volume of planning applications, offset by a reduction in fees. This statement is contradictory.

With reference to paragraph 27 of the consultation it is not considered that the prior approval process would offer more certainty and be more advantageous than a planning application.

**Question 6.2 – Do you think that the proposed right for the change of use from the Commercial, Business and Service use class to residential could give risk to any impacts on people who share a protected characteristic? If so, please give your reasons.**

Class E covers a broad spectrum of uses it is hard to distinguish what social impacts would occur through the use of the provision proposed.

**Question 7.1 – 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 greater? Please give your reasons.**

The importance of the planning system supporting the impacts arising from Covid-19 are clearly significant. However, whilst expanding the provisions of existing permitted development rights for hospitals might be appropriate on a short-term basis, extensions to educational establishments is often a type of development particularly sensitive within the local community and surrounding residents through issues such as traffic generation and noise. As such, the provisions should not be expanded for educational establishments where it results in additional capacity, or facilitates for non-educational uses.

**Question 7.2 – Do you agree that the right to be amended to allow the height limit to be raised from 5 metres to 6? Please give your reasons.**

No. An increase in the height limit from 5m to 6m could result in a material impact in certain cases and would need to be fully assessed through a planning application.

**Question 7.3 – Is there any evidence to support an increase above 6 metres?**

No.

**Question 7.4 – Do you agree that prisons should benefit from the same right to expand or add additional buildings? Please give your reasons.**

There are no prisons within the borough. However, it would appear prudent to ensure that there is capacity within the local infrastructure to support any proposed expansion, which would be best assessed through a planning application.

**Question 8 – Do you have any other comments about the permitted development rights for schools, colleges, universities, hospitals and prisons? Please specify.**

There has been little uptake on free schools in the borough through the existing permitted development process.

**Question 9.1 – Do you think that the proposed amendments to the right in relation to schools, colleges and universities, and hospitals could impact on business, communities, or local planning authorities? If so, please give your reasons.**

The proposed amendments to the rights in relation to schools, colleges and universities, and hospitals, could give rise to additional traffic generation, noise, and wider amenity concerns. It would also result in significant environmental impacts for local communities. There may be benefits for businesses operating in the area through increased footfall but the role of local planning authorities would be more reactive in the place shaping process.

Whilst the proposed amendments would reduce the number of planning applications it would reduce fee income and therefore the capacity to respond to the local community and business needs.

**Question 9.2 – 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? If so, please give your reasons.**

The types of infrastructure affected by the proposed amendments mean that there will be further opportunities for social inclusion or impact where capacity for those with such characteristics is proposed.

**Question 10.1 – Do you think that the proposed amendment to allow prisons to benefit from the right could impact on businesses, communities, or local planning authorities? If so, please give your reasons.**

There are no prisons within the borough. However, it would appear prudent to ensure there is capacity within the local infrastructure to support any proposed expansion, which would be best assessed through a planning application.

**Question 10.2 – Do you think that the proposed amendment in respect of prisons could give rise to any impacts on people who share a protected characteristic? If so, please give your reasons.**

There are no prisons within the borough and therefore offer no comment on this.

**Question 11 – 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)? Please give your reasons.**

Disagree. The timescales associated with determining major developments are required to ensure proper consideration is given to all relevant material planning considerations. Proposals to shorten this timescale would have resource implications and reduce quality of development.

Despite the fact 'major' category planning applications are subject to a 13 week target date they can be determined in a shorter timeframe where this is reasonably possible. The need for this consultation suggests issues rest elsewhere. Furthermore, shortening timescales for public service developments will inevitably be at the expense of engagement with proposed private investment which will result in a negative impact on the economy.

**Question 12 – 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? If not, please give your reasons as well as any suggested alternatives.**

Disagree, for the reasons given in response to question 11, and that local planning authorities are generally not resourced sufficiently to accommodate this.

**Question 13 – Do you agree the determination period for applications falling within the scope of the modified process should be reduced to 10 weeks? Please give your reasons.**

Disagree, for the reasons given in response to question 11, and that local planning authorities are generally not resourced sufficiently to accommodate this.

**Question 14 – Do you agree the minimum consultation/publicity should be reduced to 14 days? Please give your reasons.**

Disagree. Engaging with communities, public, applicants, and other stakeholders, forms an established and integral part of the planning process. Reducing this by 7 days would reduce participation in the process and is unlikely to significantly increase the speed of determination of applications. It would be more likely to result in dissatisfaction from the wider community and the management of this would require additional resource.

**Question 15 – Do you agree that the Secretary of State should be notified when a valid planning application is first submitted to a local planning authority and when the authority it anticipates making a decision? Please give your reasons.**

Disagree. This would require further administration of applications and potentially undermines local democracy.

**Question 16 – 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? Please give your reasons.**

Disagree. There is already a clear requirement for a positive and proactive approach to all development within the National Planning Policy Framework. It is considered that there is not a demonstrable need for this amendment and that local planning authorities should be able to exercise discretion in what priority is given to major applications.

**Question 17.1 – Do you have any comments on the other matters set out in this consultation document, including post-permission matters, guidance and planning fees? Please specify.**

**Post permission matters and completion of section 106 agreements:** It is agreed that matters such as reserved matters applications, discharge of condition applications, and those to amend permissions are important to enable development to take place. Whilst it is proposed to monitor local planning authority’s performance on these consents the LPA is still nevertheless best placed to determine what priority is given to all applications with the available resource. All applications approved subject to Section 106 agreements are already concluded as quickly as possible to secure the release of the planning permission. The ability to complete such an agreement lies outside of the control of the local planning authority.

**Guidance:** The planning of all public infrastructure developments should require formal pre-application engagement and evidence of this should be a requirement of the subsequent planning application. It is not considered necessary to require local planning authorities to act proactively when engaging with key delivery bodies since this is a requirement for all applications by virtue of paragraph 38 of the National Planning Policy Framework.

**Fees:** If local planning authorities are expected to determine public service infrastructure developments more quickly, but subject to the same legislative requirements, it must follow that additional resource is required to facilitate this through amendments to the Fee Regulations. Alternatively, there could be a requirement for provision of additional resource for such applications secured through a Planning Performance Agreement.

**Question 17.2 – Do you have any other suggestions on how these priority public service infrastructure projects should be prioritised within the planning system? Please specify.**

The need for essential public infrastructure should continue to be identified through the plan-making processes on an evidence-based approach to secure maximum public value and community benefit. However, determination of such applications will be subject to each local planning authority's governance processes which will inform the timescales. Maximum efficiencies can be obtained through utilisation of the pre-application advice processes and providing additional resource secured through Planning Performance Agreements.

**Question 18 – Do you think that the proposed amendments to the planning applications process for public service infrastructure projects should give rise to any impacts on people who share a protected characteristic? If so, please give your reasons.**

Any proposal to shorten the duration of overall timescales of determining applications reduces involvement and accessibility to the planning process. This is likely to have a disproportionate impact on those with protected characteristics.

**Question 19.1 – 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? Please give your reasons.**

Agree. The general approach to rationalise and consolidate amendments to permitted development rights and Use Classes is supported since it will be of benefit to all.

Permitted development rights are overly complex and often lead to confusion, misunderstanding, misinterpretation, and uncertainty. Furthermore, those permitted development rights which are subject to determination deadlines which offer 'deemed consents' are resource intensive and without adequate resource can undermine confidence in the planning system.

**Question 19.2 – Are there any additional issues that we should consider? Please specify.**

Expanding permitted development rights do not necessarily result in a more streamlined process that is easier for people to navigate than the current system. It also provides more scope for challenge of interpretation and procedure which risks slowing down the development process.

**Question 20 – Do you agree that such 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? Please give your reasons.**

Agree. There is no policy protection for such uses and Class E was introduced to promote flexibility in the planning process.

**Question 21 – Do you agree the broad approach to be applied in respect of category 4 outlined in paragraph 76 of the consultation document? Please give your reasons.**

Disagree on the basis that the broad approach has resulted in a checklist which is more complex than the planning application process, reduces engagement and participation, and does not necessarily provide greater certainty for businesses. There is therefore increased risks with the



complexity of the process being disproportionately greater than the subject matter of the application, resulting in a less efficient planning system.

**Question 22 – Do you have any other comments about the consolidation and simplification of existing permitted development rights? Please specify.**

If the aim is to simplify the planning system and make it more accessible then the creation of more permitted development rights is not the correct approach to fulfilling this. Increasing capacity within planning departments would result in speedier decision making and more certainty in processes and outcomes.

There is a risk of misconception that the prior approval process is a quicker way of securing development especially where the number of prior approval subject matters are not significantly less than a full planning application. The lengthy nature of permitted development rights result in inherent inconsistencies which would be more appropriately dealt with and more easily understood through a full planning application.