COTSWOLD DISTRICT COUNCIL

CABINET MEMBER DECISION-MAKING NOTIFICATION

DECISION-MAKER: **CABINET MEMBER FOR CLIMATE CHANGE AND FORWARD PLANNING**

DATE OF DECISION: **NO EARLIER THAN MONDAY 18 JANUARY 2021**

DEADLINE FOR COMMENTS: **NOON ON FRIDAY 15 JANUARY 2021**

Note Any Member who wishes to comment on an item is requested to send those comments (preferably by e-mail) to the Reporting Officer, copied to the Committee Administrator, by the deadline identified.

Any comments received will be reported to the Decision-Maker prior to the decision(s) being taken.

Item of Business for Consideration and Decision

(1) **Cotswold District Council's Response to the Government's 'Supporting Housing Delivery and Public Service Infrastructure' Consultation**
(Forward Planning Manager)

The Government is consulting on a change to the current planning rules which, if implemented as proposed, will enable changes of use to housing without needing planning permission. In doing so, the way in which Cotswold District Council manages and plans for new development will change.

Annex A provides a summary of the proposals and identifies the key issues for the Council if the consultation proposals come in to effect. It is the Council's response to the consultation.

Officer Recommendation:

That the Cabinet Member approves the proposed response in Annex A.

Reporting Officer: James Brain (01285 623540)
Committee Administrator: Ben Amor (01285 623236)

Robert Weaver
Chief Executive

8 January 2021

(END)

COTSWOLD DISTRICT COUNCIL

Council name	**COTSWOLD DISTRICT COUNCIL**
Name and date of Committee	**CABINET MEMBER FOR CLIMATE CHANGE AND FORWARD PLANNING DECISION-MAKING MEETING - 18 JANUARY 2021**
Report Number	**ITEM 1**
Subject	**COTSWOLD DISTRICT COUNCIL'S RESPONSE TO THE GOVERNMENT'S 'SUPPORTING HOUSING DELIVERY AND PUBLIC SERVICE INFRASTRUCTURE' CONSULTATION**
Wards affected	ALL
Accountable member	Cllr. Rachel Coxcoon - Cabinet Member for Planning Policy, Climate Change and Energy Email: rachel.coxcoon@cotswold.gov.uk
Accountable officer	James Brain (Forward Planning Manager) Tel: 01285 623540 Email: james.brain@publicagroup.uk
Summary/Purpose	The Government is consulting on a change to the current planning rules which, if implemented as proposed, will enable changes of use to housing without needing planning permission. In doing so, the way in which Cotswold District Council manages and plans for new development will change. Annex A provides a summary of the proposals and identifies the key issues for the Council if the consultation proposals come in to effect. It is the Council's response to the consultation.
Annexes	Annex A - Summary Report and Response to the Government's 'Supporting Housing Delivery and Public Service Infrastructure' Consultation
Recommendation/s	*That the Cabinet Member approve the proposed response at Annex A.*
Corporate priorities	• Responding to the challenges presented by the climate change emergency • Delivering good quality social rented homes • Presenting a Local Plan which is green to the core
Key Decision	NO
Exempt	NO
Consultees/ Consultation	Consultation between Cotswold District Council officers, including: • Forward Planning; • Development Management.

1. BACKGROUND

1.1. The Government is consulting on more changes to the planning system. This is in addition to the government's consultations in Autumn 2020:

- White Paper: Planning for the future (MHCLG, August 2020)[1]; and
- Changes to the current planning system (MHCLG, August 2020)[2].

2. SUMMARY OF PROPOSALS

2.1. This consultation has three distinct elements:

1) New permitted development right enabling changes of use to housing without needing planning permission;
2) Supporting public service infrastructure through the planning system; and
3) Consolidation and simplification of existing permitted development rights.

2.2. A summary report is provided at Annex A.

3. KEY ISSUES

3.1. Issues are presented in Annex A. The issues focus exclusively on Part 1 of the consultation proposals, which is considered to have much more significant and wide-reaching strategic implications than Parts 2 and 3.

4. FINANCIAL IMPLICATIONS

4.1. Proposals state that there would be a £96 per dwelling prior approval fee, which is consistent with the current planning application fee per dwelling. The fee would be capped at 50 homes. The government expects take-up of the right to be high and it believes that there would be a reduced volume of planning applications, offset by a reduction in fees (e.g. the planning fee for an application for a single house is £462). It is not clear at this stage how the impact will be felt locally; also it is not clear if new dwellings resulting from these proposed permitted development rights will be liable to pay the Council's Community Infrastructure Levy.

5. LEGAL IMPLICATIONS

5.1. There are no legal implications at this stage.

6. RISK ASSESSMENT

6.1. Risks and issues are presented in Annex A.

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1 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907647/MHCLG-Planning-Consultation.pdf

2 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907215/200805_Changes_to_the_current_planning_system_FINAL_version.pdf

7. EQUALITIES IMPACT

7.1. The government proposes a ‘digital first’ planning system. This would move away from traditional consultation and participation processes and towards a data and map-based planning system that is digitally processed.

7.2. Cotswold District has a well-documented digital divide, where some people cannot afford a computer or smartphone and others lack the skills to use this technology. Furthermore, not everyone wants to use digital channels. This is particularly true of social media such as Facebook and Twitter. The new digital first planning system could therefore exclude a section of the District’s population from engaging with the planning process.

8. CLIMATE CHANGE AND ECOLOGICAL EMERGENCY IMPLICATIONS

8.1. Implications are presented at Annex A.

9. ALTERNATIVE OPTIONS

9.1. None.

10. BACKGROUND PAPERS

10.1. None.

(END)

ANNEX A: SUMMARY REPORT AND RESPONSE TO THE GOVERNMENT'S 'SUPPORTING HOUSING DELIVERY AND PUBLIC SERVICE INFRASTRUCTURE' CONSULTATION

The consultation has three elements:

1. New permitted development right enabling changes of use to housing without needing planning permission

In September 2020, the government created a new 'Commercial, Business and Service' planning use class (Class E) and there is no longer a requirement for planning permission for changes of use between uses in Class E.

Class E incorporates retail; financial and professional services; restaurants and cafés; offices; light industry; research and development uses; indoor sport and recreational facilities, such as gyms; creches and day nurseries; and several other uses. The government highlights that Class E uses are commonly found on high streets and town centres but acknowledges that in practice the uses apply everywhere, in all cases.

The government now proposes a further extension to permitted development rights to enable changes of use from Class E to new dwellings without planning permission. There would be no size limit on the buildings that can benefit from the right. This would take effect from 1 August 2021.

The new right would not apply in Areas of Outstanding Natural Beauty or National Parks. It would also not apply to sites of special scientific interest; listed buildings and land within their curtilage; sites that are or contain scheduled monuments; safety hazard areas; military explosives storage areas; and sites subject to an agricultural tenancy. However, it would apply in Conservation Areas.

Other regulations such as Environmental Impact Assessment and Habitats Regulations would still apply. Prior approval would also still be required for some matters, including flooding; transport and site access; contamination; noise from existing commercial premises; provision of adequate natural light; fire safety; and the impact on the intended occupiers from the introduction of residential use in an area the authority considers is important for heavy industry and waste management. Prior approvals would also still need to be accompanied by detailed floor plans showing dimensions and the proposed use of each room and the position of windows.

There would be a £96 per dwelling prior approval fee, which is consistent with the current planning application fee per dwelling. The fee would be capped at 50 homes. The government expects take-up of the right to be high and says that there would be a reduced volume of planning applications, offset by a reduction in fees.

2. Supporting public service infrastructure through the planning system

The government wants to speed up the delivery of new hospitals, schools, further education colleges and prisons. To do so, it proposes to:

- enable the expansion of facilities by up to 25% of the footprint of the current buildings on the site, or up to 250 square metres, whichever is the greater.

- raise height limits for some types of public building from 5m to 6m (possibly further), excluding plant on the roof, except where it is within 10 metres of the boundary or curtilage.
- introduce a faster process for applications for planning permission with a view to encouraging greater prioritisation of decision making by local planning authorities for key public service developments. This would include changes to the development within scope of the modified process, a shorter determination period, modified consultation and publicity requirements, and measures to increase transparency.

3. Consolidation and simplification of existing permitted development rights

There have been various amendments to the Town and Country Planning (Use Classes) Order (1987) and the General Permitted Development Order (2015) in recent years. The government wishes to simplify and rationalise the existing rights, and then to bring forward appropriate legislative amendments before 31 July 2021.

Key issues

The Council's response focuses exclusively on Part 1 of the consultation proposals, as these are considered to have much more significant and wide-reaching strategic implications than Parts 2 and 3.

1. In their response to the Changes to the current planning system consultation on 16 December 2020, the government reiterated their intention to accelerate annual housing delivery to 300,000 homes a year by the mid-2020s. The standard method for calculating housing need has now been altered with an increased focus on delivering more of the 300,000 target within urban areas. One of the three reasons given in the Government's rationale for the increased focus on urban areas is that "there is potentially a profound structural change working through the retail and commercial sector, and we should expect more opportunities for creative use of land in urban areas to emerge. Utilising this land allows us to give priority to the development of brownfield land, and thereby protect our green spaces."
2. The proposed permitted development right, however, will enable change to take place in town centres in an unplanned way. Although enabling, encouraging and allowing more residential uses in town centres could potentially form part of the solution to halt the decline of town centres, this should be done in a publicly-supported and plan-led approach (as per principles contained within the National Planning Policy Framework). The emerging Cirencester Town Centre Masterplan is an example of this. Allowing ad hoc changes of use in inappropriate locations would affect the ability to regenerate and repurpose town centres in a planned way. It will compromise the effectiveness of the proactive planning and regeneration of town centres.
3. The Government's evidence identifies the importance of leisure, service and cultural uses to the future viability of town centres. The proposed permitted development right, however, could well encourage the loss of these uses from town centres. For example, it will remove the policy protection that existing town

centre businesses have. Landlords may well be incentivised to convert premises into residential use to take advantage of higher yields from their property, irrespective of the viability of existing businesses.

4. Similarly, Cotswold District has many office developments and other uses within Class E in rural locations and other locations that would not normally be considered suitable for housing. A key task for the authority is to try to strike a balance between where people live and where they work to minimise the environmental impact of commuting and to encourage cohesive settlement patterns. This proposal will undermine that balance. It would open the door for conversions to residential uses in unsustainable locations. It would put pressure on infrastructure, create more isolated communities with limited access to services, and will generate more car trips on the District's roads. Again, there would be a financial incentive to 'cash in' with a housing development, which could have a negative impact upon jobs and the District's rural economy.
5. Permitted development conversions do not contribute towards providing affordable housing. There also remains a debate within the consultation about whether new dwellings created through the new permitted development right should make Community Infrastructure Levy contributions.
6. More generally, the assumptions, prejudices and values that inform the "Planning for the Future" White Paper in relation to the current land-use planning system are again very much in evidence in this consultation document. The fundamental objections expressed in the Council's response to the White Paper also hold true for this consultation.
7. Planning is again perceived and portrayed as an obstacle rather than an enabling mechanism. Environmental considerations, particularly in respect of climate change, are not key concerns. The mid-long term consequences of the proposed change are disregarded. It is important to remember that if there is a single defining characteristic of land-use planning it is a concern for the consequences of change.
8. A narrow perception of planning is plainly in evidence. It is a mindset that fails (or refuses) to grasp that planning is a force for good. Without the current planning system - and it is as much about what is prevented as what is allowed - the country's environmental, economic and social fabric would be unrecognisable. The planning system evolved for good reason. The very things the government cherishes and wishes to conserve are a direct result of implementation of a system and its associated values that has been in operation since 1947. The government would do well to reflect on that. This proposal is the antithesis of planning. It is likely to cause more problems than it purports to solve.
9. The government reiterated the sentiments of the White Paper in a ministerial statement published on 16 December 2020, which stated: "As more homes are delivered under the new system, they will be built to higher standards, putting an emphasis on design, beauty, heritage and sustainability at the heart of the planning system". However, the new permitted development right does not provide the guarantees to deliver this ambition. Moreover, it would tie the hands of the Council in its efforts to act on the climate change emergency and address other key challenges that the district faces.

10. The government says that the homes delivered through the new permitted development right will be ‘good quality’. But the measure of good quality is introducing ‘new’ restrictions to prevent further homes being created through permitted development rights that do not have windows, basic living space standards, or that do not comply with fire safety regulations (paragraph 11). These are all fundamentals that the planning system already requires in new housing but, up until now, have been able to be circumvented through permitted development rights. This is evidence from the numerous cases of low quality, unsustainable and sometimes dangerous housing that has been created through permitted developments in recent years. Beauty is in the eye of the beholder, but there are few who would argue that many of the converted office or light industrial buildings resulting from permitted development schemes in recent years are examples of good design or beauty.
11. Perhaps most significantly, the proposed permitted development right includes no requirement for new homes to be low carbon, let along carbon neutral. It will enable buildings to be converted for housing without climate change adaptive features. It would not address the problem that many homes created through permitted developments are reported to suffer significant and recurring overheating in summer months. There is also no requirement for housing to be designed to prevent fuel poverty.
12. Fundamentally, this permitted development right is being introduced to help deliver the government’s headline target of achieving 300,000 homes a year; a target that is not supported by evidence. The consultation proposal does nothing to address more immediate, more important, and more real concerns that people and the planet need to resolve. It is counterproductive. There are better and less damaging ways to support town centres and deliver additional housing.

Other issues

13. Paragraph 1 of the consultation states that “the government is committed to reshaping the planning system to make it accessible”. The consultation itself, however, is designed to read by machines. The ‘Digital First’ approach to planning that the government is promoting in this case comprises a block of HTML text spanning over 10,000 words. Those who do not have a computer or a smartphone are immediately disadvantaged. For such an important issue, the consultation also does not have the presentation that is needed to genuinely engage people or encourage public participation. It is therefore unlikely to receive a representative response.
14. Having regard to the importance and wider impact of these proposals, this consultation should have formed part of the recent Planning for the Future White Paper. The gap between the two consultations was just 36 days. If the two consultations had been undertaken together, it would have enabled the public to consider and respond to proposals as a whole.
15. Given the fundamental changes to the planning system that are proposed by the White Paper, it is questionable why the government does not put the revised planning system in place first before introducing proposals to alter the planning use class system - which is a subordinate process. It has been widely reported

that the White Paper has met with opposition in parliament. This consultation proposal could be seen as an attempt to bypass the problems with the White Paper and try to bring forward a proposal aimed purely at assisting the government in meeting its stated housing provision targets. Whether or not this is the case, there is a clear lack of coordination between the proposed changes to the planning system and a significant risk of long-term damage being caused to town centres, rural locations, strategic planning, and efforts to combat climate change.

16. The government expects take up of the new permitted development right to be high. However, there is no assessment of the cumulative effect of the proposals on the environment, economy, infrastructure, nor the social implications. Furthermore, there is no analysis of the risks of the proposals and no impact assessment accompanies the consultation enabling understanding of whether the benefits will outweigh the risks.
17. The proposals are a further step towards deregulation that undermines the locally democratic and accountable planning system. Communities will lose the opportunity to be consulted on and participate in development in their area. It is a further shift from devolved local decision making to something akin to a licensing process based on nationally prescribed rules.
18. The primary reason for extending the permitted development rights is to speed up and simplify the planning process. This, however, is a misconception. Prior approvals often require the same amount of detail from applicants, consideration from case officers, and time to determine as conventional planning applications.
19. There are various other ways the government can support town centres. For example, it could level the playing field in terms of the taxation and business rates - or lack of - that online businesses enjoy.
20. Regarding Part 2 proposal (Supporting public service infrastructure through the planning system), there is concern that sports pitches and play spaces will not be protected if this proposal were to come into effect.
21. Regarding Part 3 proposal (Consolidation and simplification of existing permitted development rights), the Town and Country Planning (Use Classes) Order (1987) and the General Permitted Development Order (2015) and their many subsequent amendments have become very complicated. The general principle that these should be consolidated and rationalised is welcomed.

END