

BPF Response to MHCLG's consultation on supporting the high street and increasing the delivery of new homes

The British Property Federation

1. The BPF represents the commercial real estate sector. We promote the interests of those with a stake in the UK built environment, and our membership comprises a broad range of owners, managers and developers of real estate as well as those who support them. Their investments help drive the UK's economic success; provide essential infrastructure and create great places where people can live, work and relax.
2. The UK's commercial real estate sector contributes about 5.4% of GDP, and directly employs 1 million people, or 6.8% of the labour force. It provides the nation's built environment and is diversifying from its core investment in the nation's offices, shops, leisure facilities and factories, to support the new economy through investments in logistics, healthcare, student accommodation, infrastructure, residential and increasingly through Build to Rent investment in new housing.
3. We welcome the opportunity to respond to this consultation. It is right that MHCLG is exploring how planning reform can better support the high street. Our members' experience is that planning policy for too long has remained inflexible and unable to keep up with the rate of change on the high street so this fresh consultation is timely in this regard. Our specific comments on the proposed reforms to PDRs and the Use Class System are set out in response to the consultation questions in Part 1. We also provide a number of comments on MHCLG's proposals on best consideration for the disposal of local authority land and the new draft CPO guidance for new town development corporations in our response to part 2 and 4 of the consultation.

Part 1. Permitted development rights and use classes

Allowing greater change of use to support high streets to adapt and diversify

Question 1.1: Do you agree that there should be a new permitted development right to allow shops (A1) financial and professional services (A2), hot food takeaways (A5), betting shops, pay day loan shop and launderettes to change to office use (B1)? Please give your reasons.

Question 1.2: Do you agree that there should be a new permitted development right to allow hot food takeaways (A5) to change to residential use (C3)? Please give your reasons.

Question 1.3: Are there any specific matters that should be considered for prior approval to change to office use

4. The BPF welcomes the overall intentions of these proposals and strongly agree that greater flexibility on the high street so they can adapt and diversify should encouraged through reforms to planning policy. We do however have a number of comments on the specific proposals in this area:
5. In broad terms, there is a question over what these proposals are trying to achieve. British highstreets are not generic and as such a one size fits all approach should be discouraged. It may be the case that these proposals lead to some successes in revitalising certain highstreets whilst also undermining others (for

BPF Response to MHCLG's consultation on supporting the high street and increasing the delivery of new homes

example through the excessive conversion to B1 Office in certain locations eroding footfall and active frontages). The BPF are of the view that town centre planning policy needs to be based on a better understanding of local circumstances and underlying retail trends. MHCLG are right to focus on adaptation however this would be better facilitated at the local level.

6. As such, a sensible alternative approach would be to legislate to allow for additional change of use via the GDPO but allow authorities to elect locally whether to implement them in their locality (as opposed to the current system whereby local authorities can opt out by issuing Article 4 Directions which takes time and resource).
7. More broadly, it is our view that the key to bringing about greater levels of adaption for British highstreets is a good proactive local plan. More proactive local planning for town centre locations is inextricably linked with the issue of resource for local planning authorities. Given the pace of change in the retail sector, there is a need for local authority planners to keep on top of what is happening and that is challenging given the resource constraints and the strong focus on housing. In this context, it is not realistic for individual planners to be experts in consumer trends and their implications for retail. Therefore, the BPF continues to advocate:
 - A central independent resource that local planners could use, which details retail trends and their implications for local planning. To make a success of this, it would need to be supported by the retail and retail property sectors.
 - We are very supportive of initiatives like Public Practice, which seek to encourage people from a variety of backgrounds into strategic planning and support them in their careers.
8. In specific response to Q1.2, we would argue that there is a fundamental question over the quality of development that would be achieved through the proposed PDR to allow hot food takeaways (A5) to change to residential use (C3). We are in favour of more residential in town centre locations but would rather residential was planned for effectively, so it can be delivered in a coordinated fashion and help reinforce 'place'.

Temporary change of use

Question 1.4: Do you agree that the permitted development right for the temporary change of use of the premises listed in paragraph 1.9 should allow change to a public library, exhibition hall, museum, clinic or health centre?

Question 1.5: Are there other community uses to which temporary change of use should be allowed?

Question 1.6: Do you agree that the temporary change of use should be extended from 2 years to 3 years?

Support for the high street through Use Classes Order

Question 1.7: Would changes to certain of the A use classes be helpful in supporting high streets?

BPF Response to MHCLG's consultation on supporting the high street and increasing the delivery of new homes

Question 1.8: If so, which would be the most suitable approach: a. that the A1 use class should be simplified to ensure it captures current and future retail models; or, b. that the A1, A2 and A3 use classes should be merged to create a single use class? Please give your reasons

9. We welcome the intention of these proposals in terms of trying to facilitate greater adaption on the high street between uses. There is certainly a benefit for developers in relation to the proposal to blend a number of A Class uses into one use class. Such a move would bring about greater levels of flexibility when developers bring forward proposals for a scheme.
10. Our landlord members also see great benefits to the proposed merger of the use class in giving their tenants more flexibility of moving between different uses without any planning considerations.
11. However, a number of our members had some reservations with regard to A2 being included in any proposed merged use class. The main reservation is that this could, in some circumstances, lead to dull frontages – the emphasis should be on capturing active frontage within any new merged use class.
12. A number of our members also noted that there could be potential merit in looking at including some sui generis uses for the proposed merged use class for those uses that one can make a case for contributing to high street vitality.
13. More broadly, we'd encourage MHCLG to keep the use class system under regular review. What is acceptable in terms of change of use will likely change with political and social norms and there is a need for the use class order to reflect this point. A further pertinent issue is that the process of applying for change of use is made as quick, easy and efficient as possible. At present, it can take about 8 weeks and cost about £500. Any savings on cost or time will make it easier for businesses to start up and should be explored further. There is possibly also future merit in exploring a more zonal approach to town centres, rather than uses specific to a property.

A new permitted development right to support housing delivery by extending buildings upwards to create additional new homes

Question 1.9: Do you think there is a role for a permitted development right to provide additional self-contained homes by extending certain premises upwards?

14. No.

Question 1.10: Do you think there is a role for local design codes to improve outcomes from the application of the proposed right

Question 1.11: Which is the more suitable approach to a new permitted development right: a. that it allows premises to extend up to the roofline of the highest building in a terrace; or b. that it allows building up to the prevailing roof height in the locality?

Question 1.12: Do you agree that there should be an overall limit of no more than 5 storeys above ground level once extended?

BPF Response to MHCLG's consultation on supporting the high street and increasing the delivery of new homes

Question 1.13: How do you think a permitted development right should address the impact where the ground is not level?

Question 1.14: Do you agree that, separately, there should be a right for additional storeys on purpose built free standing blocks of flats? If so, how many storeys should be allowed?

Premises that would benefit from a permitted development right to build upwards

Question 1.15: Do you agree that the premises in paragraph 1.21 would be suitable to include in a permitted development right to extend upwards to create additional new homes?

Question 1.16: Are there other types of premises, such as those in paragraph 1.22 that would be suitable to include in a permitted development right to extend upwards to create additional new homes

Question 1.17: Do you agree that a permitted development right should allow the local authority to consider the extent of the works proposed

15. Whilst we support the principle of more residential in town centres, as previously stated, a more appropriate avenue for achieving this is through the planning system.
16. A number of our members are of the view that this proposed PDR would undoubtedly need an extremely complicated prior approval system to accompany it and that, in reality, the process may simply end up resembling something akin to a planning application.
17. Further, members also noted that this new proposed PDR could undermine redevelopment in certain circumstances. It may be the case, that an extra floor is added to a development in a town centre and a separate leasing structure is put in place. At the point at which the remainder of the building's lease expires, and in the circumstance that the building is ripe for redevelopment, the development would not be able to take place.

Prior Approval

Question 1.18: Do you agree that in managing the impact of the proposal, the matters set out in paragraphs 1.25 -1.27 should be considered in a prior approval?

Question 1.19: Are there any other planning matters that should be considered?

Question 1.20: Should a permitted development right also allow for the upward extension of a dwelling for the enlargement of an existing home? If so, what considerations should apply?

Making permanent two time-limited permitted development rights

Question 1.24: Do you agree that the existing time-limited permitted development right for change of use from storage or distribution to residential is made permanent?

BPF Response to MHCLG's consultation on supporting the high street and increasing the delivery of new homes

Question 1.25: Do you agree that the time-limited permitted development right for larger extensions to dwellinghouses is made permanent?

Question 1.26: Do you agree that a fee should be charged for a prior approval application for a larger extension to a dwellinghouse?

Supporting housing delivery by allowing the demolition of commercial buildings and redevelopment as residential

Question 1.27: Do you support a permitted development right for the high quality redevelopment of commercial sites, including demolition and replacement build as residential, which retained the existing developer contributions?

18. No.

Question 1.28: What considerations would be important in framing any future right for the demolition of commercial buildings and their redevelopment as residential to ensure that it brings the most sites forward for redevelopment?

19. Again, members had some reservations about this new proposed PDR. As with the proposed PDR for upwards extensions, it is thought that the sheer complexity of the prior approval system that would be necessary, would simply mean that you would end up with a process that resembled a planning application in all but name.
20. Moreover, members have made the case that there are a plethora of considerations that would be much better dealt with through a formal planning application from daylight sunlight considerations and amenity to parking and access.

Part 2. Disposal of local authority land

Question 2.1: Do you think that the threshold for the existing general consent for the disposal of land held for purposes other than planning or housing at undervalue (under section 123 of the Local Government Act 1972) should: a. remain at the current level? b. be increased? c. be removed completely? Please give your reasons.

21. Be increased.

Question 2.2: If you consider it should be increased, do you think the new threshold should be: a. £5 million or less? b. £10 million or less? c. other threshold? (please state level) Please give your reasons

Question 2.3: Do you agree that the Secretary of State should issue a new general consent under section 233 of the Town and Country Planning Act 1990 for the disposal of land held for planning purposes? Please give your reasons.

BPF Response to MHCLG's consultation on supporting the high street and increasing the delivery of new homes

Question 2.4: If yes, do you think any new general consent should apply to: a. disposals at an undervalue of £2 million or less? b. disposals at an undervalue of £5 million or less? c. disposals at an undervalue of £10 million or less? d. disposals at some other undervalue threshold? (please state level) e. all disposals regardless of the undervalue? Please give your reasons.

Question 2.5: Do you agree that the economic, social or environmental well-being criteria which apply to the existing general consent should also apply to any new general consent for the disposal of land held for planning purposes?

Question 2.6: Do you have any additional comments about the current system governing disposals of land at an undervalue by local authorities and our proposals to amend it?

Question 2.7: Do you consider that the current £10m threshold contained in the general consent governing disposals by the Greater London Authority remains appropriate? Please give your reasons.

Question 2.8: If you consider the current threshold is no longer appropriate, or that the limit should be removed completely, please specify what you think the alternative should be and give reasons.

22. We welcome MHCLG consulting in more detail in this area following the original proposals trailed in the Housing White Paper.
23. With respect to the consideration of a new threshold for the disposal of local authority land, our members are of the view that raising the threshold further or indeed removing the cap in its entirety would certainly be a move in the right direction. To their mind, it is right that local authorities should have greater responsibility for the sale of their own land and therefore more responsibility and control over the outcomes.
24. As stated, our members welcome the proposals of raising the cap significantly and that no cap at all seems a plausible option for government to consider. However, a more important issue at the heart of this debate is the practicable definition of best consideration more broadly. This is to say there is a need for local authorities to move away from a culture of 'highest financial return' with 'lowest legal risk' to a system of assessing options based on wider social value, community value and longer-term sustainability. It should be noted that highest financial return and lowest risk, does not necessarily result in best outcomes for a community (or even the local economy).
25. When we reference best outcomes for a community this is to say that 'public benefit' can be accrued beyond greatest sale value. However, a lack of clarity and uncertainty around what constitutes a reasonable and appropriate value indicator has stifled transactions where public benefit (usually in terms of sports and leisure, general regeneration, and employment potential) would be delivered as part of a given sale/development. We do however acknowledge that there are difficulties in accounting for 'public benefit' in a robust way, and as such we would encourage the government to work with industry in giving further consideration to how this may be done effectively.
26. In conclusion, we would encourage government to look at ways in which they can empower local authorities to look beyond best financial return and give more weight to the considerations outlined above.

BPF Response to MHCLG's consultation on supporting the high street and increasing the delivery of new homes

Part 4. New town development corporations: Draft compulsory purchase guidance

Question 4.1: Do you have any comments on the draft guidance at Annex D?

27. Yes.

Question 4.2: Do you have any views about the implications of the proposed guidance on people with protected characteristics as defined in the Equality Act 2010? What evidence do you have on these matters? Is there anything that could be done to mitigate any impact identified?

28. The British Property Federation wishes to endorse the views of the Compulsory Purchase Association (CPA) who have submitted their representations separately, and are reproduced as follows:
29. Overall, the CPA felt the principles in the Guidance to be appropriate acknowledging that there needs to be flexibility in how New Town Development Corporation's exercise their compulsory purchase powers.
30. As noted in paragraph 5 of the draft guidance "a New Town Development Corporation's ownership of land early in the development process may assist with the proper planning for, infrastructure provision in and sustainable development of, a new town – in pursuit of its statutory objects under sections 4(1), (1A) and (1B) of the 1981 Act. New town development corporation ownership of land may also help to stimulate confidence that the new town will proceed, help to secure infrastructure investment, and thereby promote development". The purpose of the New Town Development Corporations is to create an ordered sustainable environment which provides all the necessary infrastructure for the new community, whilst capturing any uplift in land values. The reference in the guidance to early land ownership in paragraph 5 could, therefore be stated more strongly acknowledging that this is likely to be essential.
31. The CPA note that the guidance is silent on what needs to be shown in terms of funding and deliverability. It could, however, be sensible to have guidance. As acknowledged by paragraph 7 given their scale, new towns are likely to be developed over an extended period of time, during which market conditions may change. In this context, the Secretary of State recognises that it will not always be possible or desirable for new town development corporations to have fully worked up, and secured approval for, detailed development proposals prior to proceeding with a compulsory purchase order". This could go on to acknowledge that in turn the means of delivery and how the development is to be funded is unlikely to have been fully worked up. An indication of the development and funding strategy ought to be sufficient supported, where parts of the development are to be brought forward by private developers broad evidence of market interest.
32. The use of the word "sometimes" in the second paragraph of paragraph 5 and in paragraph 6 should be removed as this suggests that there may be occasions where it is not appropriate to initiate the compulsory purchase process in parallel with negotiations or to acquire land where there are no specific development proposals in place. For the reasons stated there is likely to need to be early use of compulsory purchase powers and the use of "sometimes" undermines this.
33. The CPA thought that paragraph 9 which deals with other proposals for use of the land by existing owners potentially unhelpful and provides a form of objection for those even with only small scale development opportunities within the area of the New Town Development Corporation. The test of whether the alternative proposals are likely to be taken forward is not just about the planning position but also the experience of the land owner. Moreover it may be difficult to refuse planning permission for the alternative

BPF Response to MHCLG's consultation on supporting the high street and increasing the delivery of new homes

development particularly if the New Town Development Corporation's proposals are at an early stage. The alternative proposals may also not necessarily conflict with those of the New Town Development Corporation or this may be hard to judge where there are no specific development proposals. The alternative proposals may, however, affect the ability to secure the sustainable and comprehensive development of the area and to achieve certainty of deliverability. Whilst this may be covered by the third bullet point in paragraph 9 more could be made of these specific considerations.

Sam Bensted
Policy Officer
British Property Federation
St Albans House
57-59 Haymarket
London SW1Y 4QX

020 7802 0126
sbensted@bpf.org.uk