**Bath Preservation Trust Response to Consultation on the Future of Time-Limited Permitted Development Rights**

**14/11/2021**

**Q.1.a. Do you agree that the right allowing markets to be held by or on behalf of local authorities for an unlimited number of days per year (Part 12, Class BA) should be made permanent?**

No, there should not be a relaxation of permitted development rights.

**Q.1.b. Do you have any evidence as to any benefits and impacts as a result of introducing this right for markets, or have views of future impacts were the right made permanent?**

Please see response to Q.2.g with respect to the importance of sustaining and preserving the local distinctiveness and character and area of a place, as well as the priority of ensuring change is compliant with the priorities of maintaining heritage assets such as conservation areas, listed buildings, and World Heritage Sites.

**Q.1.c. Do you think that there should be a limit on the number of days that this right can be used for in a calendar year?**

There should not be a relaxation of permitted development rights. Should the right allowing markets to be held for an unlimited number of days a year be made permanent, this would remove any sort of restriction as to how long a market could be held for. However, this does not mean that a market should not be allowed to run all year, but the local authority and relevant third parties including residents should be involved in consulting on and making that decision through the planning system based upon their specialised understanding as to how that market may contribute to/detract from an area. The permitted development right restrictions remain significant in ensuring ongoing consultation and local input based on what is perceived to be significant about their places, and should therefore be retained without amendment.

**Q.1.d. Do you have views on whether there should be additional restrictions on the use of this right to mitigate against potential impacts of making this permanent, including proximity to scheduled monuments?**

There should not be a relaxation of permitted development rights. In particular, restrictions should remain in place/be enforced in association with heritage assets such as listed buildings, conservation areas, and World Heritage Sites, to ensure that the mitigation of harm to the special character or appearance of an area remains a significant consideration within the decision-making process.

**Q.2.a. Do you agree that the right allowing for the provision of moveable structures (Part 4, Class BB) should be made permanent?**

No, there should not be a relaxation of permitted development rights.

**Q.2.b. Do you have any evidence of benefits and impacts as a result of the introduction of the right for moveable structures (Part 4, Class BB), or have views on potential future impacts were the right made permanent?**

Please see response to Q.2.g.

**Q.2.c. Do you think the right for moveable structures (Part 4, Class BB) should be limited to 56 days per calendar year?**

No, there should not be a relaxation of permitted development rights.

**Q.2.d. Do you think that the right for moveable structures (Part 4, Class BB) could be greater than 56 days, or allowed for an unlimited number of days, in the curtilage of non-listed buildings?**

No, there should not be a relaxation of permitted development rights. This approach does not account for the cumulative impact of temporary structures on the character or appearance of a place, or the impact that temporary structures within the curtilage of a non-listed building could have on other relevant heritage assets, such as conservation areas, scheduled ancient monuments, and World Heritage Sites, or other designated areas of natural value such as AONBs or the Green Belt. The impact of a structure remains to be assessed on a case-by-case basis, dependent on its scale, design, and position, and other factors such as public visibility or residential amenity, in which case a time limit is useful for control purposes. In some cases, a change of character in public spaces (eg. outdoor seating in the summer, Christmas markets and associated commercial seating & structures) may be suitable, but only for a marked period of time.

**Q.2.e. Do you agree that there should be a height limit for the moveable structures of 4 metres?**

There should not be a relaxation of permitted development rights. A height limit in conjunction with existing permitted development restrictions on moveable structures would be welcome, if not lower than 4m.

**Q.2.f. Do you agree that there should be a size threshold on the moveable structures allowing them to be up to 50% of the footprint of the existing building on site?**

There should not be a relaxation of permitted development rights. There should be a restriction on the proposed footprint of moveable structures. In this case, this could prevent a structure from exceeding 50% of the footprint of the existing building on site, but this footprint is of a considerable size, and the restriction could (and should?) be set at a lesser percentage of the footprint of the existing building on site. This approach does not account for moveable structures within the curtilage of listed buildings, or non-designated heritage assets, in which case a 50% footprint would have a significant impact on that building’s setting in which it is experienced or viewed. Similarly, this does not account for increased sensitivity in historic areas such as conservation areas and World Heritage Sites.

**Q.2.g Do you have any evidence of impacts specifically on heritage assets, including listed buildings as a result of the introduction of the right for moveable structures (Part 4, Class BB). Do you have any views on potential future impacts on heritage assets were the right made permanent?**

The relaxation of permitted development rights does not account for the harmful impact it could have on the established character of our high streets, town and city centres, and the special interest of conservation areas, as well as the significant contribution that setting makes to the recognised special architectural and historic interest of listed buildings.

BPT appreciates the current challenges experienced by local retailers, shops, and businesses in the wake of Covid-19, and the difficult challenges faced as part of the post-pandemic economic, and to some degree social, recovery. However, we continue to emphasise the importance of the planning system and the plan-making process in effectively managing sustainable and positive change within our towns, cities, high streets, and local shopping centres. There is a need to achieve a fine balance between enabling different business models and increased opportunities for revenue growth, such as the use of outdoor structures throughout the pandemic to achieve greater seating capacity within social distancing parameters, against the preservation and enhancement of the distinctive local character and appearance of our streets.

We do not consider that the relaxation of permitted development rights is the solution. Outdoor structures that increase undercover seating capacity have become increasingly popular and have proven to be effective; without restrictions, however, this could result in a ‘free for all’ which would see an increasing number of ‘pop up’ structures (gazebos, tents, canopies, etc.) within our urban centres without a need to suitably reflect or respond to local character. We have concerns about an increasing mix of structure types and designs which would clutter the public realm and detract from locally-established streetscape character, whilst creating a confused ‘clash’ between structure types.

Defined as ‘moveable structures’, the point of this type of classification is that it indicates a structure that is temporary in design and function. The removal of time period would therefore undermine this restriction whilst also removing local authority and third party powers to oppose installation.

We feel that the application of this relaxation of permitted development rights within the curtilage of listed buildings would be particularly dangerous, and does not account for the significant contribution that setting can make to how a listed building is perceived or experienced. Setting in this context can apply to the immediate setting (such as a private garden or boundary), or the wider townscape/landscape context to which a building can contribute.

There is additionally no reference to areas of protected characteristics, such as conservation areas or World Heritage Sites. There are many unlisted or locally listed buildings within conservation areas which positively contribute to an established or distinctive setting which may easily become over-cluttered or obscured with adjoining moveable structures on what would essentially be a permanent basis. There is a possibility that the relaxation of these permitted development rights would undermine current protections and threaten the ‘special interest’ i.e. the reason why conservation areas have been designated in the first place.

**Q.2.h. Do you have views on whether there should be any other additional restrictions on the use of this right (Part 4, Class BB) to mitigate against potential impacts of making this permanent?**

Should permitted developments be relaxed in accordance with the parameters of this consultation, restrictions on permitted development should remain in place within the curtilage listed buildings, and on Article 2(3) designated land, including conservation areas, AONBs, and World Heritage Sites. It may be prudent to consider restrictions on associated ‘paraphernalia’ such as outdoor lighting, advertising/signs, and seating which may overspill the boundary of the structure and result in further visual clutter.

**Q.3. Do you think that any of the proposed changes in relation to the future of the time-limited permitted development rights could impact on: a) businesses b) local planning authorities c) communities**

Yes/No/Don’t know.

**Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination and which right or rights they particularly relate to.**

Relaxation of permitted development rights would restrict the ability of local planning authorities to control the number, scale, and design of temporary structures within commercial environments (city centres, high streets). Temporary structures can have a cumulative impact on a place, with potential detriment to public or visual amenity with resulting impact on how communities enjoy or value a place.

Temporary structures on busy pedestrian/commercial highways, such as the high street, can impact the appearance and usability of the public realm, or the historic character and appearance of a local area. Temporary structures in rear courtyards and gardens, whilst of reduced public visibility, can have a negative impact on local residents’ experience of their homes. By expanding the use of a premise’s outdoor space, this can result in increased activity and noise, as well as perceived loss of privacy or overlooking/increased backland surveillance.

**Q.4. Do you think that any of the proposed changes in relation to the future of the time-limited permitted development rights could give rise to any impacts on people who share a protected characteristic? (Age; Disability; Gender Reassignment; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation.**

Yes/No/Don’t know.

**If so, please give details and specify which right/s any comment relates to.**

Individuals with restricted mobility or mobility issues can be affected by temporary structures, covered seating, or stalls that might block the pedestrian highway or ‘creep’ out into the public realm. Control over the size, type, position, and location of moveable/temporary structures is significant to ensure an optimum balance between ‘activated’ outdoor space for businesses, and accessible public realm and highway for mobile and non-mobile/mobility-restricted individuals. Unrestricted seating and structures, particularly considering typical commercial competition between premises and businesses, can result in ‘bottlenecking’, particularly in historic environments with narrow/restricted streets and pavements.

It should be noted that the relaxation of permitted development rights would remove the rights of communities to comment on, respond to, and consult on proposals that would have previously required planning permission, and therefore undermine residents who may be trying to protect or retain characteristics of local amenity value.