

Joint WOAW* and CARE submission to the permitted development rights (PDR) consultation**

Introduction

We are delighted that DLUHC is consulting on permitted development rights, something that is long overdue. We are two action groups from the same rural parish which is set in the North Downs and has, within the parish bounds, 12 nationally registered ancient woods (five of which are SSSIs), much prime farmland and a good and well-used network of public rights of way. The local planning authority's (LPA) landscape surveys show that the parish landscapes are of the highest order with part of the parish inside the Kent Downs AONB (the Kent Downs represent the eastern end of the North Downs) and the rest of the parish inside the Kent Downs Area of High Landscape Value (AHLV).

We are responding to the consultation by email, to avoid responding to each of the 80+ sections of the consultation document. We only have a small number of points to make points we wish to make, majoring on the ancient woodland and the land immediately surrounding ancient woodland.

Summary

Like many others across rural England, our parish has been plagued with one-off developers (i.e. individuals or families) misusing PDR to create, in planning terms, 'high risk' buildings in, or immediately adjacent to, AWI-registered (non-SSSI) ancient woodland. By 'high risk', we mean buildings that do not look like barns (see Appendix A below) and none of the developers have their business in farming or forestry, the two claimed needs in all the PD notifications to the LPA in our parish) but more like buildings that can be covertly used as dwellings which, after four years after 'completion', become the subject of an application of 'Certificate of Lawful Living' (COL) to the LPA. We know that this abuse of PDR is happening all over rural England, in open countryside as well as woodland but, for an obvious reason, it is harder for the developers to get away with this loophole in open countryside.

We ask Government to remove permitted development rights entirely from woodlands registered on the Ancient Woodland Inventory (AWI) and, as defined in the National Planning Policy Framework (NPPF), from land 'immediately adjacent to'

registered AWI-registered woodland. The effect of this should be twofold:

1. Excepting both projects of national importance and major infrastructural schemes, no new building should be constructed in ancient woodland in England from now on. In our submission to your recent NPPF consultation, we argued that the NPPF should direct LPAs to refuse all PD notifications in ancient woodland.

2. Existing non-residential buildings in, or on land immediately adjacent to, ancient woodland should stop being eligible for Certificates of Lawful Living (COL) with immediate effect. The NPPF should direct LPAs to refuse all applications (whether by a full planning application or by a COL application) without exception, for a change of use to residential or commercial/business (any other business other than that stated in the original PD notification to the LPA, i.e. 'agriculture' and 'forestry' as demonstrably the main use with no residential or overnighting allowed in the building).

Additional points:

3. Of course, an alternative approach would be a new statutory provision to ban the construction of any new building (other than for projects of national importance or necessary for major infrastructural schemes) in, or immediately adjacent to, registered ancient woodland and also to disallow change of use to residential or commercial from existing non-residential buildings on such land.

4. Where buildings constructed in, or immediately adjacent to, ancient woodland under PDR are shown not to be used primarily for the purpose stated in PD notification (i.e. 'agriculture' or 'forestry'), LPAs should be directed to issue enforcement notices (EN) ordering the owner to demolish the building, remove all debris and to make good the land within six months. LPAs should be directed to act promptly on the EN in cases where the owner does not comply and bulldoze the building.

5. Where the developer has erected a building in or immediately adjacent to an ancient wood without even bothering to submit a PD notification,

the LPA should promptly issue an EN (as in 4 above) and not consider any PD notification or application from this developer for a replacement building in the vicinity.

Please see the appendix A below for more details of this, the misuse of PDRs in or near to ancient woodland. This is WOAW's & CARE's main point that we wish to communicate to you in this consultation.

Other points

1. We support the need to re-use existing buildings for housing in cities, towns, villages and other areas that are already built up.

2. In the open countryside, we do not oppose the principle of re-using existing buildings for commercial/business uses, just so long as that use is compatible with other priorities (reduce light, noise, smell, water, particulate and gaseous pollution) and is compatible with local landscape, historic and wildlife policies and with the need to reduce car and lorry traffic on country roads.

3. In open countryside, we oppose the conversion of existing farm buildings where the buildings are not connected with a village or existing estate) to dwellings because, as we have seen, each such building triggers multiple car movements on country roads and lanes. We want to avoid new settlements being created out of redundant farm buildings in open countryside. In some cases, where the farm buildings are unsightly, made of relatively cheap materials and have no historic value, demolition of redundant farm buildings should be considered as the best outcome.

4. Permitted development rights are already wide ranging - in some cases, too wide ranging, e.g. buildings can be expanded in protected areas and landscapes as well as in irreplaceable habitat. That right should be revoked.

5. Please consider the cumulative effect of PDRs. These can be very detrimental:

- Ancient woodland morphs into residential estate where the trees serve merely as landscaping.

- Too many conversions to dwellings under PDR can lead to a shortfall in services and infrastructure in an area and, in rural areas, create a permanent increase in traffic;
- Rural sprawl continues unchecked, resulting in over-development of the countryside. There is also a risk of 'housing via the backdoor' in highly unsustainable locations under expanded PDR;
- Impact of new businesses on rural areas including noise, smell, traffic, and industrialisation; and
- No real biodiversity net gain (i.e. real = appropriate to region and place, not introducing wetland fauna & flora through new ponds in downland).

Therefore the planning system needs to be involved to ensure that the adverse effects of a change in PDR policy are managed and addressed.

6. In appropriate locations (see above), we welcome proposals to ensure that rural conversions to dwellings actually result in smaller and hopefully genuinely affordable housing units.

While wishing to support appropriate conversions of redundant farm dwellings in the right locations and measures which encourage the local economy to continue to thrive, we do not believe that further relaxation of PDR further is the right solution. The planning system must be involved to ensure that the detrimental effects of PDR set out above are addressed.

WOAW & CARE
25/09/2024

Appendix A - Planning loophole leading to the creation of dwellings in woodland without any planning application being submitted.

The loophole works as follows:

1. You, the developer, buy a plot of woodland or a plot of land adjacent to a woodland;

2. You submit a permitted development notification to the local planning authority (LPA) saying that you need to construct a building for 'forestry' or 'agriculture';
3. You construct the building with water/electricity connected, internet hub established, surprisingly high-grade fencing for a barn (possibly electrified or with razor/barbed wire), CCTV & security lights, camera-doorbells, post-code and a post-box which receives mail;
4. Four years after your building is 'substantially complete' (or, if it was out of sight, you might claim it has been substantially complete for four years), you say that you have been living in it continuously for four years (even if you have not);
5. You apply for a 'certificate of lawful living' from the LPA, which the LPA will find difficult to refuse (the four year rule, above); and
6. So, well done, you have an authorised dwelling in a beautiful location without applying for full planning permission (which you well knew would have been refused by the LPA if you had made a full planning application).

NB. The situation in England: This loophole has been exploited for decades and is well-known. WOAW was aware of cases elsewhere in Kent, so surveyed all CPRE county branches. Many had such cases.

As for so-called 'forestry buildings', the **Forestry Commission position**: *'... even on very large lots, there is no need for permanent buildings or structures "for the purposes of forestry". Indeed whole woods, and even collections of woods are well managed without such development'* (source – 'Woodland Lotting in Kent', LUC, 2007).

Appendix B - Who are we?

WOAW (Watch Over Adisham's Woods) and **CARE (Conserve Adisham's Rural Environment)** are two action groups from one parish, each with a different focus but a shared concern. Both are volunteer-run by parishioners & villagers, with no pecuniary interest in the outcome of their entirely lawful and legal public interest campaigns. We use established procedures, the media and rational, fact-based argument. We are part of the community of the Parish of Adisham (Adisham first entering written records in the year 623, so this is the 1,400th anniversary of the first known written mention of our settlement although the archaeological finds suggests that the settlement may go back to the Bronze Age).

***WOAW** is a group of local volunteers seeking to watch over, cherish and protect all woodlands in the Parish of Adisham. In our parish, there are 12 privately-owned ancient woods (five being SSSIs), all existing at 1600CE, all registered on the Ancient Wood Inventory (AWI). Part of our work involves positive collaboration with the new owners of the five SSSI woods. However, WOAW is obliged to oppose building development in, or immediately adjacent to, two ancient, non-SSSI woodlands elsewhere in the parish (plots in Oxenden Shaw and n-w Woodlands Wood). Here, we drew the attention of the local planning authority (LPA) to various undesirable buildings being thrown up and apparently lived in, earth-moving and construction/motorway waste-dumping activities; the LPA (Canterbury City Council) then issued, absolutely correctly, six enforcement notices for the removal of six buildings and other structures and to make the ground good. The developers are currently appealing against these. The saga pinpoints a loophole in the planning system which we will continue to ask central government to close.

****CARE** is a volunteer action group, active when there is a major threat to the countryside of our parish and to the rural character of our village. It came out of a 20-year hibernation to oppose an existential threat, the LPA's local plan scheme for a 3,200 housing-unit new town joining Adisham to our larger neighbour Aylesham (which neither community wants), ending our history as a separate, rural community. We also oppose large factory & warehousing schemes on prime farmland in prominent places in the Kent Downs Area of Outstanding Natural Beauty (KD AONB).

WOAW:

<https://adishamwoods.co.uk/>

<https://www.facebook.com/groups/watchoveradishamswoods/>

CARE:

<https://www.facebook.com/groups/853486756074549/>

<https://www.adisham-countryside.com/>