



PLANNING FOR THE FUTURE

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The Impact on Music, Culture, Arts and the Night Time Economy Discussion Paper

Introduction

On 6 August 2020, the U.K. government published *Planning for the Future*, outlining its proposals to overhaul the planning system in England.¹ These are described as the most significant changes to the planning system since WWII.

Sound Diplomacy, in partnership with the Music Venue Trust, Outset Contemporary Art Fund, Studiomakers, Night Time Industries Association and the Creative Land Trust, argue that while reform is welcome, the White Paper does not address significant issues related to the impact of the planning system on cultural spaces and venues and will, if implemented as is proposed, challenge England's music, culture, art and night time economy sectors. We also recognise that these proposals are just that - proposals - and we hope this discussion paper supports the redrafting of a planning policy that supports the wider creative economy.

This discussion paper is separated through the headings below, all of which are referenced in the White Paper. We have selected specific issues that directly impact culture (music, art, night time economy).

- Historic Environment
- Use Classes
- Permitted Development Rights (PDR)
- Infrastructure Levy
- Combined Authorities
- Planning and Licensing

This is not a formal response. This is a provocation, for debate and analysis.

We have followed this with a number of opportunities to pursue to help improve *Planning for the Future* and create a new global leading planning system for England.

¹ Ministry of Housing, Communities and Local Government (2020a) *Planning for the Future*. Available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907647/MHCLG-Planning-Consultation.pdf accessed 24-08-2020

Historic Environment

Planning for the Future is committing policy to preserving and protecting heritage. Heritage is a discipline in and of itself, but for the purposes of this response, we interpret the definition of heritage, in relation to the White Paper, in reference to the built environment and buildings themselves.

Proposed Reforms in *Planning For The Future*

- In this regard, the government issued three sets of regulations pertaining to class use orders (how buildings are classed for use) on 21 July 2020. Issued via a press release, these regulations (among other things) protected theatres, concert halls and live music venues from change of use, redevelopment or demolition until 2022.²
- This is a temporary measure concerned with the immediate impact of COVID-19.
- At the same time, the role of cultural spaces and venues of any kind is absent from the White Paper, so there appears to be no long-term protection post-2022. While we recognise many other sectors are also not included in the White Paper, it is important to notice what is absent as much as what is included.
- The role of Asset of Community Value designations and how they can or will be used in the future is not included. This has been utilised to support pubs, cultural centres and other community uses.³

What Are The Potential Impacts?

- These separate regulations fail to protect other cultural spaces and venues, including artist workspaces, LGBTQI+ night-time venues, independent cinemas, galleries, dance studios and rehearsal and recording studios, unless it is classed as Sui Generis (more on that in the use class section).
- Prioritising housing, as outlined in *Planning for the Future*, could put pressure on loss-making cultural spaces and venues and deny them the opportunity to recover. Freeholders who own them will be less likely to support the leaseholder, especially if their property falls within a newly designated *Growth* or *Renewal* zone.⁴ Remaining cultural uses may become unaffordable or inaccessible to most over time. This

² Ministry of Housing, Communities and Local Government (2020b) New planning rules to protect our cultural heritage. Available at <https://www.gov.uk/government/news/new-planning-rules-to-protect-our-cultural-heritage> accessed 24-08-2020

³ <https://mycommunity.org.uk/nominating-an-asset-of-community-value-acv-and-community-right-to-bid>

⁴ Please see the zoning section for more information on *Growth*, *Renewal* & *Protected* zoning.

enhances the impetus to convert loss-making premises into housing, which can discourage investment in mixed-use, vibrant developments.

- As a result, this could lead – by 2030 – to a significant loss in cultural spaces and venues, especially those not deemed viable in COVID-19 recovery support.
- Protection should be extended to Special Policy Areas to safeguard cultural uses and activities that are unique to an area or particular cultural group, and the Agent of Change principle must also be incorporated. This will be pertinent in *Growth* and *Renewal* areas (more guidance in the below section). It will also support the development of night time economies, and protect against the homogenisation of the built environment.

What Are The Opportunities?

- England has some of the world's most important cultural venues. *Planning for the Future* offers an opportunity to further extend protections for cultural venues, which will create more spaces and places to incubate global leading British creative IP. This will lead to more opera, more chart topping hits, more international artistic and cultural commissions and a robust evening and night time economy that attracts investors and global firms to England's towns and cities.
- To make this happen, a parallel system could be designed that provides cultural assets and land uses with equivalent, but bespoke protection, based upon definitions and criteria that are meaningful and work for cultural spaces.



Use Classes

Outside of *Planning for the Future*, the government has made amendments to the use classes order (introduced on 21 July and implemented from 1 September 2020). There are a number of possible challenges in the changes to use class designation that threaten the sustainability of England's music, culture, art and night time economy ecosystems.

Reforms To Use Classes & Zoning Reform in *Planning for the Future*

- **Sui Generis**
 - Sui Generis means 'in a class by itself' and is always reserved for uses that fall outside of other use classes.
 - 'Pub or drinking establishments' and 'cinemas, concert halls, bingo halls and dance halls' (including music venues), previously falling under other classes (Classes A and D), are now classed as Sui Generis.
- **Zoning**
 - All land in England is to be zoned into three categories: *Growth* (land automatically granted outline planning permission); *Renewal* (land that requires some planning permission, such as town centres or brownfield sites) and *Protected* (greenbelt, conservation areas and other protected assets).
 - Use class reform will occur within these zoning changes. If a building falls within a *Renewal* zone, then by nature, the use will become less protected; it could be argued that because it is within a *Renewal* zone, it is subject to 'renewal'.
 - The majority of grassroots music venues and nightclubs, for example, may face increased challenges, as they are likely to be located in areas designated as *Renewal*. Therefore, very strong representation at all local plan hearings will be necessary to ensure local plans are strong enough to protect these uses from this pressure (due to zoning reform).

What Are The Potential Impacts?

- **Music & Cultural Venues as Sui Generis**
 - It is unclear how the new zones specify or promote particular land uses. This is especially pertinent for land uses that may not generate a profit or for those with less freehold value (such as a grassroots music venue, nightclub or dance studio). Protecting these venues, planning for them, and how to ensure they are affordable and accessible for both operators and users, is absent from the White Paper proposals.

- **Impact on High Streets (and cultural use on them)**
 - The lack of consideration of the mix of uses in town centres around such a grouping is particularly questionable in the White Paper. Managing the mix of uses as it is proposed could lead to profitable uses being prioritised and community-oriented uses, space for CICs and charities being diminished.
 - This could result in the high street being curated primarily by market forces, prioritising asset value rather than community use.

- **Business Rates**
 - Class use needs to be understood in relation to business rates. Converting premises into another use either in part, or full, can impact its rateable value. According to Nichole Herbert Wood of *Second Floor Studios & Arts*, “All artist studios are built as Class B1 and this, in turn, determines how we are valued by the VOA. This is fundamental as many artist studios are built to be of a certain size and build specification to fall under the £12,000 valuation, to enable full small business rate relief. Artist studios may collapse if they can’t get business rate exemption.”⁵
 - The 2021 business rates revaluation has been postponed due to COVID-19, so this will require revisitation in relation to *Planning for the Future*, an issue that the White Paper does not take into account.
 - We recognise that this is a separate issue to the White Paper and the Government is consulting on it simultaneously, but needs to be considered together, in relation to the potential impact of both planning reform and rates revaluation on music, culture, art and night time economy uses.

What Are The Opportunities?

- Ensuring that cultural spaces and venues of all kinds are protected by existing Agent of Change regulations across zoning reform is integral to protecting and preserving these uses across all of England’s communities.
- Arts Council England have found that 75% of all cultural venues are within a 5 minute walk of a high street.⁶ Ensuring these uses in *Renewal* areas are protected and affordable will improve and support communities, which will increase interest in town centre residential development, greater density and the revitalization of high streets and town centres.

⁵ Personal interview

⁶ <https://www.artscouncil.org.uk/news-and-announcements/culture-our-high-streets>

Permitted Development Rights (PDR)

Permitted Development Rights (PDR) give planning permission by default when converting certain uses (offices, for example) to housing. This is accelerated by changes to the use classes order and the drive to support housing development. The impacts on music, culture, art and night time economy uses could be significant.

PDR Amendments & The Issues Related To Them

- A new Permitted Development Right (PDR) allows for the demolition and rebuilding of 'vacant and redundant' light industrial buildings as homes.⁷
- Another PDR allows commercial and retail buildings (within the new broad E Use Class) to be converted into homes.
 - Existing use classes remain until 31 July 2021.
 - A further right allows the upward extension by up to two storeys of existing post-war-built homes, and the creation of new homes above existing terraces, offices and shops, all without needing planning permission.⁸

What Are The Potential Impacts?

- With regard to PDR, what presents a threat to cultural spaces and venues is the ease with which a juxtaposed use can be converted by means of permitted development from a use that was compatible with the cultural venue, to a use which is not, because it is more noise sensitive.
- It is vital that any PDR changes or changes in use class take account of the Agent of Change principle, and the need to conduct assessments to ensure that the proposed development is compatible with the cultural space or venue that it will be near to.
- Lack of control over the introduction of residential or other noise sensitive uses will present a threat over time to cultural spaces and venues that are vulnerable to complaints and objections. Clear safeguards need to be built in, either to the prior permission stage for permitted development, or by some other means.

⁷ First Plan (2020) New demolition and rebuild PD rights for unused buildings. Available at <https://www.firstplan.co.uk/news/new-demolition-and-rebuild-pd-rights-for-unused-buildings/> accessed 24-08-2020

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<https://www.building.co.uk/focus/permitted-development-rights-a-solution-to-our-dying-high-streets-or-a-permit-for-future-slums/5107228.article>

- This reform may discourage meanwhile use, and therefore limit the development of new cultural spaces and venues, especially those that begin as meanwhile (e.g temporary) uses.
- As a result, incorporating culture may become less viable in the future, compared to demolishing and rebuilding spaces that could house culture (such as a warehouse or other light industrial) to build housing.
- There is little incentive in the reforms to retain affordable artist workspace of all disciplines.
- These prospective impacts contradict some of the objectives in *Planning for the Future*, as meanwhile use is an important aspect of place-making. For example, this in contravention of Proposal 12 in the White Paper.⁹

What Are The Opportunities?

- As outlined before, but worth emphasising, all plan making must first include the Agent of Change principle, in order to protect, support and preserve music, culture, art and night time economy uses.
- For example, a refusal in Birmingham of a residential development on the site of an existing music venue on the grounds that the venue had greater community benefit is an opportunity to rethink development.¹⁰ We recognise that this is not the only reason for refusal and is ancillary to PDR, but it is worth considering and understanding.

Infrastructure Levy

How developers ‘pay into the system’ is set to change.

Proposed Reforms in *Planning For The Future*

- The government is altering its approach to developer contributions. It aims to reform the existing Community Infrastructure Levy and instead, institute a nationally set value-based flat rate charge ‘Infrastructure levy’, which will abolish Section 106 agreements.

⁹ Proposal 12: To support the transition to a planning system which is more visual and rooted in local preferences and character, we will set up a body to support the delivery of provably locally-popular design codes, and propose that each authority should have a chief officer for design and place-making.

<https://www.gov.uk/government/consultations/planning-for-the-future/planning-for-the-future>

¹⁰ <https://acp.planninginspectorate.gov.uk/ViewDocument.aspx?fileid=38881429>. The appeal states: “The Reports also state that the supply of live music venues is principally driven by market economics. This, no doubt, reflects the business practices of running such venues. However, the function of such venues, as a community facility, goes beyond such an approach because it also has a role in serving the needs of the community. The strength or volume of objection to the proposal is not, in itself, a determining factor, but what those objections demonstrate in this case is the value of the facility to the community, whether this be a local or a wider population that was attracted due to the music offer.”

What Are The Potential Impacts?

- S106 agreements are not only concerned with new forms of infrastructure or building. They can be used to restore light industrial spaces for affordable artist studios and creative workspaces for SMEs, alongside the intensification of housing. Creating a 'place' requires more than housing. These uses complement housing and bring active community contribution by encouraging people to work, live and spend locally.
- It is unclear how the planning system will achieve its social objective and ensure sustainable development, as the NPPF currently requires.
- Neighbourhood Plans are to be retained as an important means of democratic participation. Aside from failing to specify its content or statutory force going forward, except that it should reflect the proposals of the local plan, there is no mention of whether the existing access to revenue from the Community Infrastructure Levy would remain. This could be spent on locally-determined cultural venues if it were available.
- Public consultation will only happen at the local plan making stage, with the opportunity at the planning application stage of individual developments being scrapped. This means that if statements are not recorded at that stage, over 6-8 years prior to planning permission being granted, then communities cannot object to applications.

What Are The Opportunities?

- The Government could demonstrate global leadership by instituting a cultural infrastructure levy within the general Infrastructure Levy, to ensure that a portion of developer contributions are earmarked for culture, as defined by the needs of the communities invested in.
- The reforming of S106 obligations to separate affordable housing and culture and spinning out a specific determinant for culture would support increased investment in one of England's and the UK's global leading sectors – the creative industries.
- Another opportunity that could safeguard and support diversity in local plan-making is for Local Planning Authorities to prepare Soundscapes for their areas, in much the same way that they prepare Landscape assessments. Understanding the vibrancy or tranquility of the various areas of a planning district, and planning in accordance with this status quo around noise and related impact would be a very important step in permitting the right development in the right place.



Combined Authorities

The role of combined authorities in supporting music, culture, art and the night time economy has been significant. The White Paper, as proposed, limits their decision-making by further nationalising standards, which could reduce the role the music, culture, art and the night time economy play in our towns and cities of the future.

Proposed Reforms in Planning For The Future and Prospective Impacts

- The role of combined authorities (Greater Manchester, West Midlands, Greater London Authority), their regional plans, and their capacity to define and support large-scale spatial planning for culture is being reformed in *Planning for the Future*.
 - In terms of the London Plan, proposed reforms including the Agent of Change Principle – is not included.
 - The role of the overarching night time economy cannot be left to local plans, as the needs of the uses – in planning terms – requires wider support to ensure it is recognised across all planning decisions.
- While combined authorities will – at present – maintain a Community Infrastructure Levy, the proposed reforms erode the power of large combined authorities and their mayors.

- These combined authorities have initiated significant programmes to support music, culture and the night time economy, including the Night Czar, Night Time Bureau Champions and the Night Time Enterprise Zone (London), Night Time Economy Advisor and Taskforce (Manchester), Creative Enterprise Zones (London), Artist Workspace Programs (London), Cultural Recovery Units (West Midlands) and Music Boards (Liverpool). Diminished control over local plan-making may limit the capacity and innovation these local authorities have with regards to decision-making on culture.

What Are The Opportunities?

- Some of England's combined authorities are leaders in advocating for arts, music, culture and the night time economy. Capitalising on their strengths and supporting this approach will further increase England and the UK's global competitiveness.

Planning and Licensing

This issue impacts all sections in the White Paper.

The White Paper does not refer to the relationship between England's planning and licensing systems. The reform looks specifically at the planning system in isolation. In practice, this is not how land use works, when related to music, culture, art and the night time economy.

In 2017, the House of Lords Select Committee on the ten year review of the Licensing Act 2003 made recommendations that would have seen the two systems stitched much more closely together, including the merger of the respective appeals systems into one.¹¹ The Raynsford Review into the whole of the planning system, (TCPA November 2018), considered the issue in the context of the future of planning. That review concluded that the current planning regime is not fit for purpose.¹² The White Paper does not offer a viable solution to this issue, continuing to separate these interlinked systems.

Planning for the Future presents an opportunity to reform the framework in which the planning and licensing systems work together. At present, they are run by different bureaucracies, different legal frameworks and different objectives. This is being noted at Government level. The issues engaged are the remit of several Government Departments: Home Office; Ministry of Housing, Communities and Local Government; Department for

¹¹ <https://publications.parliament.uk/pa/ld201617/ldselect/ldlicact/146/14602.htm>

¹² <https://www.tcpa.org.uk/raynsford-review>

Environment, Food and Rural Affairs; Department for Digital, Culture, Media and Sport and the Department for Business, Energy and Industrial Strategy.

The Departments are aware that these regulatory developments on the ground must be understood and orchestrated, but are not yet fully cognisant of the level of coordination required. Even more importantly, there is a significant opportunity at present to design and develop place-making policies across all regulatory regimes in a coordinated and effective way, and *Planning for the Future* can lead on this. This will take significant effort, but the alternative is disparate and unconnected, even chaotic on a national scale. This is what is happening now.

For councillors and officers on a day-to-day basis, planning and licensing are regarded as water-tight compartments that should never be mixed with each other. There is even case law that suggests that this should be so. This is no longer an appropriate outlook, and a continuation of this attitude in local government decision-making will lead to error and challenge. Now is the time to examine afresh a modern approach to the planning and licensing regimes, separately and together, and to understand and improve. This should be reflected in *Planning for the Future*.

Next Steps & Initial Recommendations

Here are some proposals we believe can be expanded in *Planning for the Future*.

- Extending cultural protections and exempting cultural venues from permitted development rights.
- A more detailed focus on place-making and the role of culture.
- More guidance on how cultural venues fit into zoning reform, especially in regards to *Renewal* areas.
- Clear reforms outlining how to better align the planning and licensing systems.
- A link between *Planning for the Future* and business rates, to ensure a review into rateable values and business rates for cultural spaces and places are aligned with planning objectives and support affordable rent levels and rate relief.

Conclusion

Planning should be about creating a place to live for, rather than just creating a place to live. A priority on housing, an acceleration of Permitted Development Rights, the reorganising of use classes, and no proposed alignment between planning and licensing offer little clarity regarding art, culture, music and the night time economy and land use: What country do we

want to live in? Do we value spaces based on land value, or what happens inside the building? Should we focus on community-oriented decision making, or balance-sheet decision making?

The degree to which plan-making can inform the retention and development of cultural spaces and whether there will be any protective legislation beyond 2022 remains to be seen. The revisions to the NPPF will no doubt provide clarification, but this is on condition that ‘cultural wellbeing’ does not get written out or devalued.

The Right Hon. Minister Caroline Dinenage (Con) was asked on 6 September 2020 by Right Hon. Kevin Brennan MP (Lab) what the proposed reforms would mean for grassroots music venues. Her response was:

We recognise the value of grassroots music venues and understand that this sector is facing significant challenges due to the Coronavirus pandemic. During this period we are committed to finding the best ways to protect them so that they can continue to exist as a vital part of the music ecosystem, feeding this country’s love of a broad range of culture. DCMS officials have been in regular dialogue with their Ministry for Housing Communities and Local Government counterparts and will continue to work together closely. Changes to planning processes to support the high street revival, announced by the Prime Minister on 30 June 2020, will also recognise the value of retaining cultural buildings such as grassroots music venues and theatres rather than encouraging their change of use.¹³

We see the opportunity in her words. Protecting and supporting cultural development supports all of us. Culture around us creates better places to live, which will increase the value we all put on our homes, shops and places of work. We can create a global leading planning framework, and *Planning for the Future* is the start. We can ensure that all of England’s artists – regardless of discipline – have the places and spaces they need to create and continue the success of Britain’s global leading cultural and creative industries.

Thank you for reading. For more information, visit www.sounddiplomacy.com/planningforthefuture.

To submit a formal response to *Planning for the Future*, it’s [here](#).

¹³ <https://questions-statements.parliament.uk/written-questions/detail/2020-07-01/67562>