



**response to  
Ministry of Housing, Communities and Local Government  
consultation on**

**Supporting housing delivery through a new national  
permitted development right for the change of use from the  
Commercial, Business and Service use class to residential  
and  
Supporting public service infrastructure through the  
planning system**

January 2021

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**Supporting housing delivery through a new national  
permitted development right for the change of use from the  
Commercial, Business and Service use class to residential**

**Q1 Do you agree that there should be no size limit on the buildings that could benefit from the new permitted development right to change use from Commercial, Business and Service (Class E) to residential (C3)?**

Agree	
Disagree	x
Don't know	

Please give your reasons:

While in principle this proposal looks attractive this category of buildings are by no means all in the sorts of areas that should in general be used for residential purposes in the 21<sup>st</sup> century. Some definitely would not convert in a manner that met the Government's 'build beautiful' design aspirations in its recent White Paper. Such locations may be unsuitable and lack the facilities normally available in residential areas giving rise to essential requirements (e.g. schools, community facilities etc) that cannot be met in the immediate locality and result in problems.

Further, at a time when it is essential we consider the carbon footprint of all development, it will not be possible to ensure that the wider aspects of schemes have been properly considered. This includes their location in relation to public transport, schools etc, where possible the 'greening' of the site being re-developed, and whether the impact of residential use is appropriate within an area that may be essentially commercial or industrial in character, even if the particular site falls within one of the prescribed classes.

In addition, it is also essential that if this proposed change is implemented a size limit is imposed. While there may be a larger number of this range of properties vacant after the Covid 19 outbreak is over, it is important that a requirement to obtain planning permission for the proposed change is retained, so that an informed and assessed decision can be taken. A judgement will need to be made as to whether the property concerned should be retained in its present form because it is in a key location that will once again become viable and required when businesses again expand after the probable depression is over.

**Q2.1 Do you agree that the right should not apply in areas of outstanding natural beauty, the Broads, National Parks, areas specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981, and World Heritage Sites?**

Agree	X
Disagree	
Don't know	

Please give your reasons:

These areas are ones that have been designated for specified national and international landscape, wildlife and heritage importance. It is therefore essential that the current controls and restrictions should remain unaltered. They currently provide great benefit to our environment and our carbon footprint which it is essential we do not erode. New residential development within them, in places for which it has not been expressly planned, could be extremely damaging.

**Q2.2 Do you agree that the right should apply in conservation areas?**

Agree	
Disagree	X
Don't know	

Please give your reasons:

The architectural quality and character of these areas is a prime consideration and it is therefore important that planning applications should continue to be made in the normal manner. This applies particularly in historic towns such as Bury St Edmunds the character and form of which is particularly important. The whole of the town centre is a conservation area and schemes need to be carefully considered to ensure that both the street scene and individual buildings are not subject to adverse impact, as well as considering the settings of listed buildings (some Grade I).

**Q2.3 Do you agree that, in conservation areas only, the right should allow for prior approval of the impact of the loss of ground floor use to residential?**

Agree	X
Disagree	
Don't know	

Please give your reasons:

This is agreed – but for the avoidance of doubt our interpretation of your question is that **planning permission will be required for change of use of ground floors to residential.**

**NB: This response will only be relevant if Government decides to proceed with the grant of a new PD right which would run counter to our opposition to its application within Conservation Areas.**

**Q3.1 Do you agree that in managing the impact of the proposal, the matters set out in paragraph 21 of the consultation document should be considered in a prior approval?**

Agree	
Disagree	X
Don't know	

Please give your reasons:

We disagree with the proposed safeguards on the basis that they are insufficient to ensure adequate protection, and provision of facilities, for prospective residents (See our answer to question 1 – 2<sup>nd</sup> paragraph above). It is certain that, if all material matters are properly considered, there are going to be many instances where although the development would be 'permitted' the adverse impacts on proposed sites are such that planning permission should not be granted. This will place planning authorities in difficult positions and result in the refusal of applications and appeals. It is a matter of concern to us that this proposed provision will inevitably result in the creation of future problem areas.

**Q3.2 Are there any other planning matters that should be considered?**

Yes	x
No	
Don't know	

Please specify:

This proposal, which is intended to speed up the increase in house building by the use of permitted development rights, will in many cases give rise to considerable extra work for local planning authorities. Some, probably many, applications will be for sites that adjoin properties with existing uses which will be in potential conflict with residential use. This may result in impacts on the existing occupiers of some commercial and business sites and will involve additional work for local planning authorities. See our answer to Question 6.1, below.

**Q4.1 Do you agree that the proposed new permitted development right to change use from Commercial, Business and Service (Class E) to residential (C3) should attract a fee per dwellinghouse?**

Agree	x
Disagree	
Don't know	

Please give your reasons:

If the right were to be granted (to which we are opposed), on the basis of the information provided it is our view that handling the ensuing planning application relating to the detail of the proposed housing scheme will in most cases mean extra work for the local planning authority. This is because had the local authority received an outline application first (as in the case of normal applications) many of the issues which would have been considered at the outline stage

will need to be assessed by the planning authority before it can properly examine the submitted details.

**Q4.2 If you agree there should be a fee per dwelling house, should this be set at £96 per dwellinghouse?**

Yes	X
No	
Don't know	

Please give your reasons:

This seems reasonable.

**Q5 Do you have any other comments on the proposed right for the change of use from Commercial, Business and Service use class to residential?**

Yes	X
No	

Please specify:

The underlying reason for this proposed change appears to be a desire on the part of Government to speed up the delivery of new housing. If the proposed change is not significantly restricted both as to the number of dwellings that may be built, and the areas in which they are located, it will result in inappropriate development. The nation will have inflicted on it housing that is potentially ill located and, in some cases, lacks the essential community and other facilities that are needed to accompany it if it is to be successful. Furthermore, the housing will inevitably not reflect what is needed if we are to achieve the nation's climate emergency needs. A largely unrestricted PD right of the type envisaged here not only runs counter to the principles of good land use planning, but will surely result in poor development that is in conflict with the quality of design aspired to in the recent White Paper. While it is accepted, and indeed important, that there are to be improved design requirements for the interiors of dwellings it will simply not be possible to 'build beautiful' in the manner envisaged. In some cases the settings that such developments require will be greatly poorer than most new residential development possesses at present – a position that is simply not acceptable and is in stark contrast with the aspirations of the recent White Paper. As many will have said in response to the White Paper, it is possible genuinely to improve the planning system and speed up the delivery of housing by means other than hasty inappropriate changes.

**Q6.1 Do you think that the proposed right for the change of use from the Commercial, Business and Service use class to residential could impact on businesses, communities, or local planning authorities?**

Yes	X
No	
Don't know	

If so, please give your reasons:

If developments of the sort proposed were to be created, once they were inhabited, there would be certain to be cases where work on commercial and related sites will give rise to complaints from the new residents. Common causes of complaint are noise from work out of normal hours

and air conditioning and other plant, early or late deliveries, and difficulties with waste disposal. These are often difficult problems to resolve – and will be especially so if adjoining housing development has been automatically ‘permitted’. This will inevitably give rise to extra work on the part of local authority environmental health teams given the complications of monitoring and recording problems, and then ensuring adequate solutions to overcome difficulties. There may also be potential legal complications of determining responsibility in cases such as this.

**Q6.2 Do you think that the proposed right for the change of use from the Commercial, Business and Service use class to residential could give rise to any impacts on people who share a protected characteristic?**

Yes	X
No	
Don't know	

If so, please give your reasons:

The answer given to question 6.1 above indicates potential on-site problems which some people who fall into this category may well need assistance to resolve.

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## Supporting public service infrastructure through the planning system

**Q7.1 Do you agree that the right for schools, colleges and universities, and hospitals be amended to allow for development which is not greater than 25% of the footprint, or up to 250 square metres of the current buildings on the site at the time the legislation is brought into force, whichever is the larger?**

Agree	X
Disagree	
Don't know	

Please give your reasons:

This seems a sensible upward revision to the current GDPO (Class M) allowing limited extensions of no more than 25% of the gross capacity of the original buildings subject to certain limits all within the existing curtilage of the relevant institution. **NB. We take your sentence “To benefit from the right, the site would already have to have sufficient land to build the extension or new building” as meaning that there is sufficient land for the proposed development within the site’s “existing curtilage”.**

**Q7.2 Do you agree that the right be amended to allow the height limit to be raised from 5 metres to 6?**

Agree	X
Disagree	

Don't know	<input type="checkbox"/>
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Please give your reasons:

This seems justified given the needs of some public buildings.

**Q7.3 Is there any evidence to support an increase above 6 metres?**

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input checked="" type="checkbox"/>

Please specify:

**Q7.4 Do you agree that prisons should benefit from the same right to expand or add additional buildings?**

Agree	<input checked="" type="checkbox"/>
Disagree	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Please give your reasons:

It is clear that there is a shortage of space within prisons at present and that this has resulted in those detained being kept in conditions which are unacceptable and increase the likelihood of disorder.

**Q8 Do you have any other comments about the permitted development rights for schools, colleges, universities, hospitals and prisons?**

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

Please specify:

**Q9.1 Do you think that the proposed amendments to the right in relation to schools, colleges and universities, and hospitals could impact on businesses, communities, or local planning authorities?**

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

If so, please give your reasons:

The proposals have the potential to impact positively. Both colleges and universities need to establish close links with businesses and communities. It is important that they work in partnership with businesses to ensure that education and training not only provide well for

general need, but are also tailored to meet the specific needs of business and industry in their immediate localities.

**Q9.2 Do you think that the proposed amendments to the right in relation to schools, colleges and universities, and hospitals, could give rise to any impacts on people who share a protected characteristic?**

Yes	X
No	
Don't know	

If so, please give your reasons:

The proposals should make it easier to make express provision for any facilities required for people with protected characteristics.

**Q10.1 Do you think that the proposed amendment to allow prisons to benefit from the right could impact on businesses, communities, or local planning authorities?**

Yes	X
No	
Don't know	

If so, please give your reasons:

The amendment will make it easier for prisons to have more space for education and training without the need for prisoners to leave the prison curtilage on a regular basis.

**Q10.2 Do you think that the proposed amendment in respect of prisons could give rise to any impacts on people who share a protected characteristic?**

Yes	X
No	
Don't know	

If so, please give your reasons:

It has the potential to assist by providing space for in-house support, treatment and training.

**Q11 Do you agree that the new public service application process, as set out in paragraphs 43 and 44 of the consultation document, should only apply to major development (which are not EIA developments)?**

Yes	X
No	

Please give your reasons:

Our agreement with this statement depends on there being a requirement for full local community engagement and consultation, with the onus placed on the applicants to demonstrate that this has been the case. This will need to include an explanation of how concerns raised

during consultation have been addressed, and evidence that the changes made to the proposed scheme are satisfactory to the local community.

**Q12 Do you agree the modified process should apply to hospitals, schools and further education colleges, and prisons, young offenders' institutions, and other criminal justice accommodation?**

Yes	X
No	

If not, please give your reasons as well as any suggested alternatives:

**Q13 Do you agree the determination period for applications falling within the scope of the modified process should be reduced to 10 weeks?**

Yes	
No	X

Please give your reasons:

As things stand we do not consider that this is achievable in 10 weeks. However, it might be possible if a mandatory requirement is placed on the applicant to demonstrate to the LPA (and for the LPA to certify when the application is submitted) that all relevant preliminary stages have been properly undertaken and completed.

**Q14 Do you agree the minimum consultation / publicity period should be reduced to 14 days?**

Yes	
No	X

Please give your reasons:

A period of 14 days is unrealistic unless applicants are required to consult the relevant statutory consultees prior to submitting the application, and to demonstrate that they have obtained clearance from them. In these circumstances 14 days would be sufficient for consultees to confirm their position to the LPA.

**Q15 Do you agree the Secretary of State should be notified when a valid planning application is first submitted to a local planning authority and when the authority anticipates making a decision? (We propose that this notification should take place no later than 8 weeks after the application is validated by the planning authority.)**

Yes	
No	X

Please give your reasons:



We consider that the period of 8 weeks to be too long a delay. The SoS should be notified within 4 weeks if the application has to be determined within 10 weeks as proposed. If this is not the case the proposed 8 week period will leave insufficient time (2 weeks) for the SoS to investigate the matter concerned and act (presumably to 'call in' the application for his/her determination) if s/he decides to do so.

**Q16 Do you agree that the policy in paragraph 94 of the NPPF should be extended to require local planning authorities to engage proactively to resolve key planning issues of other public service infrastructure projects before applications are submitted?**

Yes	X
No	

Please give your reasons:

This will be important in order to assist all bodies granted these powers - especially if the institutions concerned run into difficulties and delays in resolving matters raised by statutory consultees as is often the case. Similarly, there may be issues connected with the local community over which help may be needed.

**Q17.1 Do you have any comments on the other matters set out in the consultation document, including post-permission matters, guidance and planning fees?**

Yes	
No	X

Please specify:

**Q17.2 Do you have any other suggestions on how these priority public service infrastructure projects should be prioritised within the planning system?**

Yes	
No	X

Please specify:

**Q18 Do you think that the proposed amendments to the planning applications process for public service infrastructure projects could give rise to any impacts on people who share a protected characteristic?**

Yes	X
No	

If so, please give your reasons:

They may require the same assistance as they would in relation to a normal planning application in cases where there could be adverse impacts on them or their relevant planning interests; or in

relation to ensuring that facilities which it is proposed be provided by the application can be properly used by them.

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## Consolidation and simplification of existing permitted development rights

**Q19.1 Do you agree with the broad approach to be applied to the review and update of existing permitted development rights in respect of categories 1, 2 and 3 outlined in paragraph 76 of the consultation document?**

Agree	X
Disagree	
Don't know	

Please give your reasons:

The proposals are in general justified in order to speed up the provision of much needed community facilities – subject to ensuring that as a result the process does not impair proper consultation with local communities.

**Q19.2 Are there any additional issues that we should consider?**

Yes	
No	X

Please specify:

**Q20 Do you agree think that uses, such as betting shops and pay day loan shops, that are currently able to change use to a use now within the Commercial, Business and Service use class should be able to change use to any use within that class?**

Agree	X
Disagree	
Don't know	

Please give your reasons:

Use Class E (Commercial Business and Leisure) uses to which it is proposed an automatic change will be permitted are less likely to have adverse impact on the local environment and community than betting and pay day loan shops.

**Q21 Do you agree the broad approach to be applied in respect of category 4 outlined in paragraph 76 of the consultation document?**

Agree	X
Disagree	
Don't know	

Please give your reasons:

Our agreement is subject to there being a further public consultation when the legal draft of the proposed changes has been completed due to their complexity.

**Q22 Do you have any other comments about the consolidation and simplification of existing permitted development rights?**

Yes	
No	X

Please specify:

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