

# Supporting Housing Delivery & Public Service Infrastructure

## About this Consultation

This consultation document and consultation process have been planned to adhere to the consultation principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation 2016, and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with the law and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. A full privacy notice is included on the next page.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

**Please confirm you have read this page. \***

Yes	<input checked="" type="checkbox"/>
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# Privacy Notice

The following is to explain your rights and give you the information you are be entitled to under the data protection legislation.

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

## **1. The identity of the data controller and contact details of our Data Protection Officer**

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at [dataprotection@communities.gov.uk](mailto:dataprotection@communities.gov.uk).

## **2. Why we are collecting your personal data**

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

## **3. Our legal basis for processing your personal data**

Article 6(1)(e) of the General Data Protection Regulation 2016 (GDPR) provides that processing shall be lawful if processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.

Section 8(d) of the Data Protection Act 2018 further provides that this shall include processing of personal data that is necessary for the exercise of a function of the Crown, a Minister of the Crown or a government department.

The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Ministry of Housing, Communities and Local Government. The task is consulting on departmental policies or proposals or obtaining opinion data in order to develop good effective government policies in relation to planning.

## **4. With whom we will be sharing your personal data**

We will not share your personal data with organisations outside of MHCLG without contacting you for your permission first.

## **5. For how long we will keep your personal data, or criteria used to determine the retention period.**

Your personal data will be held for 2 years from the closure of the consultation

## **6. Your rights, e.g. access, rectification, erasure**

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have all or some of your data deleted or corrected
- d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

## **7. Storage of your personal data**

We are using SmartSurvey to collect data for this consultation, so your information will be stored on their UK-based servers in the first instance. Your data will not be sent overseas. We have taken all necessary precautions to ensure that your data protection rights are not compromised by our use of third-party software.

If you submit information to this consultation using our third-party survey provider, it will be moved to our secure government IT systems within six months of the consultation closing date (28 January 2021).

**8. Your personal data will not be used for any automated decision making.**

**Please confirm you have read this page. \***

Yes	<input checked="" type="checkbox"/>
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# Respondent Details

This section of the survey asks for information about you and, if applicable, your organisation.

**First name \***

Nancy

**Last name \***

Holman

**Email address**

n.e.holman@lse.ac.uk

**Are you responding on behalf of an organisation or as an individual? \***

Organisation	<input checked="" type="checkbox"/>
Individual	<input type="checkbox"/>

**Organisation (if applicable)**

LSE London, London School of Economics

**Position in organisation (if applicable)**

Professor (Associate) Director of Planning Studies

**Please indicate whether you are replying to this consultation as a: \***

Developer	<input type="checkbox"/>
Planning consultant	<input type="checkbox"/>
Construction company or builder	<input type="checkbox"/>
Local authority	<input type="checkbox"/>
Statutory consultee	<input type="checkbox"/>
Professional organisation	<input type="checkbox"/>
Lawyer	<input type="checkbox"/>
Charity or voluntary organisation	<input type="checkbox"/>
Town Council	<input type="checkbox"/>
Parish Council	<input type="checkbox"/>
Community group, including residents' associations	<input type="checkbox"/>

Private individual	
Other (please specify):Academic expert	x

**Please indicate which sectors you work in / with (tick all that apply): \***

Education section	x
Health sector	
Prison sector	
None of the above	

# 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 current size limits are small, there are three reasons why we disagree with having no size limit. The first is that the lack of a size limit would allow for very large sites with potentially strategic importance to be developed outside the planning system, which would not allow for the proper planning of infrastructure.

Secondly, the fee structure proposed is such that developers only pay per dwelling unit up to 50 units. Large sites could easily produce 100s of units, which would put undue pressure and see a significant loss of revenue for local authorities.

Finally, very large commercial/retail buildings are very unlikely to generate appropriate safe and secure housing given the complexities of conversion.

**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 need to meet high standards that take account of environmental and related issues which cannot be assured through PDR.

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

Agree	
Disagree	x
Don't know	

Please give your reasons:

We disagree with the principle upon which PDR is being applied to class E rather than its specific application in conservation area.

**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	
Disagree	
Don't know	

Please give your reasons:

**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:

While we welcome the fact that the government has introduced measures to ensure access to natural light and means of escape in a fire, these considerations do not address many other attributes of many of the poor quality and inadequate dwellings built in the first round of PDR. The matters noted in paragraph 21 do not ensure that flats will have a window (as an unopenable skylight would suffice); there is no requirement for ventilation. In the last round of PDR new dwellings were situated in areas of light industry, which had no suitable outside areas for children resulting in incompatible uses (e.g. 5 year-olds playing amongst HGVs and toddlers breathing diesel fumes). Given the recent case of Ella Kissi-Debrah who died as a result of pollution, surely there should be some condition for not putting dwellings into areas where this sort of traffic is likely to be significant.

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

Yes	x
No	
Don't know	

Please specify:

Many UK high streets exceed safe limits for nitrogen dioxide and particulate matter. PDR conversion should not be allowed in areas that exceed safe limits.

The proposal for natural light should include natural ventilation.

Accessible space either inside or outside is now an absolute necessity.

There should be a provision for ensuring adequate infrastructure.

**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:

There are direct costs to the local authority which should be covered by the fee.

As it is currently written this proposal only applies to up to 50 dwelling units – we believe it should apply to all units.

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

Yes	
No	x
Don't know	

Please give your reasons:

As it is currently written this proposal only applies to up to 50 dwelling units – we believe it should apply to all units. We think evidence should be presented about the actual cost borne by the LA before determining the sum to be charged – which may need to vary by attribute.



**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:

There are a number of problems with this proposal.

As we have seen from previous rounds of PDR, local authorities have lost a great deal of office and light industrial space, often to the detriment of local economies. The original proposals came in with a nod toward redundant space but, as noted in our roundtable, the office space lost in London was more than half (55%) in use when converted. This has long lasting impacts. Units (especially large ones) that have been carved up into housing and sold off individually are unlikely to re-enter the supply chain as anything other than housing resulting in significant loss of viable office space notably for smaller organisations.

It is not just office space but also small businesses providing local services -eg gyms and catering that may lose their accommodation. These problems will be particularly associated with the transfer of larger buildings in and around city centres where services are necessary to revitalise these areas after the pandemic.

In contrast to the assertions in this document, the evidence shows the numbers of poor-quality homes delivered were far more than “a few”. It is important to understand that these small, poorly appointed and sometimes dangerous properties are then visited upon the most vulnerable – sometimes in the form of temporary accommodation. This is unacceptable.

It should also be taken in account that office buildings are generally built to last for a much shorter lifetime than houses. The iconic Lloyds building for instance was expected to need complete refurbishment after 15 - 20 years.

The proposals are also highly inconsistent with the Government’s laudable aspirations to “build better homes where people want to live”. It is far more likely to produce additional homes where people have to live as they have very few options. Reducing the price of poor quality homes by adding to their number should not be any government’s objective especially given the many concerns that are part of current debate on quality. Moreover, it is generally accepted not least by government that standards must rise in the light of experience during COVID.

It is also worth noting that these proposals seem inconsistent with the Government’s stated policy of rejuvenating high streets as PDR incentivises businesses to convert properties to housing rather than to maintain and improve the high street.

At the same time local authorities will lose necessary revenue where commercial rates are higher than residential.

Overall there will be no attempt to limit negative externalities nor to promote positive ones – therefore many of the benefits to those living/working nearby may be lost.

**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:

It reduces the ability to plan strategically as it allows change to occur a haphazard manner that inherently takes little account of either positive or negative externalities. It makes it much more difficult to ensure that the purpose and principle of local plans and neighbourhood planning can be achieved. It limits the spaces available to small businesses and it is likely to strip many areas of vital shops and services.

Given the very different local tax regimes between buildings subject to business rates and residential accommodation local authorities in many areas may suffer significant loss of income while they may at the same time need to provide additional services and address problems of pollution and congestion affecting both the residents of the additional units and their neighbours.

There may also be a negative impact on new building if the numbers of dwellings being provided is significant in particular areas.

**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	
No	
Don't know	

If so, please give your reasons:

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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	
Disagree	x
Don't know	

Please give your reasons:

It is hard to imagine why this is a good idea given the variable contexts in which this may be applied. We question if this is merely a reintroduction of Crown Consent.

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

Agree	
Disagree	
Don't know	x

Please give your reasons:

Is there any evidence that there is demand for this?

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

Yes	
No	
Don't know	x

Please specify:

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

Agree	
Disagree	x
Don't know	

Please give your reasons:

There is no logical reason or evidence given in the proposal for this to be the case. There is nothing special about prisons that constitutes a change.

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

Yes	x
No	

Please specify:

These are buildings that have the potential for generating additional congestion and pollution. There should be some attempt to provide resources to mitigate negative impacts.

**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	x
No	
Don't know	

If so, please give your reasons:

Yes, through transport problems, congestion and pollution

**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	
No	
Don't know	

If so, please give your reasons:

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**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:

As above
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**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	
No	
Don't know	

If so, please give your reasons:

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**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	
No	

Please give your reasons:

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**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	
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:

Local planning authorities are already over-burdened and under staffed. Shaving off more time for decisions seems arbitrary. There is no evidence that there are significant delays and the change is too small to be anything other than ideologically based.

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

Yes	
No	x

Please give your reasons:

There is a great deal of rhetoric around better engagement with communities in the most recent White Paper. Shortening the consultation period seems to run counter to the positive approach taken in the White Paper.

**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	

Please give your reasons:

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**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	
No	

Please give your reasons:

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**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	

Please specify:

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**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	

Please specify:

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**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	
No	

If so, please give your reasons:

## **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	
Disagree	x
Don't know	

Please give your reasons:

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

Yes	
No	

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	
Disagree	x
Don't know	

Please give your reasons:

They have negative locational externality issues and may therefore impact on longer term objectives.

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

Agree	
Disagree	
Don't know	

Please give your reasons:

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

Yes	x
No	

Please specify:

As a result of our discussions with other academics and professionals and our own experience and research we have a number of more general issues that we would wish to make with reference to the consultation.

We fully accept that PDR can be a very positive approach in specific circumstances particularly when the resultant homes are of good quality and there are few potential negative externalities. But the proposed extension is moving into unknown territory where the evidence suggests that there may be significant negative impacts in terms of the loss of locational externalities and the lack of opportunity for good planning. In fact, we can see no

real advantages to extending this policy into local authority areas that have adopted local plans.

One important aspect is that it brings together two distinct changes which taken together may undermine the capacity for place making so clearly part of the government's own agenda: the link between the new more general use class E and the suggested PDR extensions. Both have the capacity to generate negative externalities which could reinforce one another. Government funded projects under the Future High Street Fund may have to be drastically modified and even become unviable if the local authority loses the capacity to control development in line with planned approach.

One suggestion that has been made in this context is to introduce a more appropriate Town Centre use class. Another is to look to the action plan approach used in the Netherlands when there is a need to reduce the amount of retail space.

Most importantly many of the potential outcomes seem to go against the positive approach to good planning laid out in the Government's Policy paper – so that many of the objectives of the wider planning reforms could be undermined.

The core of the Policy paper is the objective to ensure good and speedy planning - including taking account of both positive and negative externalities and incentivising more sustainable communities – including for instance walking distance local services many of which will be at risk in areas where house prices exceed those for commercial properties.

Another issue where this consultation appears not to be in line with the policy paper is in the lack of any contribution to the community and any financing to offset negative externalities with no contribution from the developer/ landowner. The Policy paper addresses this to some extent, but that approach will be undermined by the immediate introduction of a 'free transfer' service to owners.

Importantly a policy which originated from the existence of vacant offices and retail units has already extended into occupied units. This puts at risk many local services and reduces the potential for small businesses or people wishing to work near their home to be able to do so. Experience during the pandemic suggests that there is a need to rethink the parameters of the policy.

The same concerns are clearly relevant with respect to the housing likely to be provided – which despite some improvements – can be expected to be mainly small, poorly appointed and without accessible outside space.

## **End of survey**

You have reached the end of the consultation questions. Thank you for taking the time to complete them and for sharing your views. Please note that you will not receive an automated email to confirm that your response has been submitted.

After the consultation closes on 28 January 2021 we will consider the responses we have received and publish a response, in due course.