

**Appendix 1: Consultation Response to Supporting housing delivery and public service infrastructure**

Consultation Questions

**Size of the buildings to which the right might apply**

**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)?

No. Irrespective of size limits, there is no evidence to suggest that greater flexibility from use class E to residential use would sustainably support the vibrancy and viability of the town centres. It is considered that this approach could be particularly damaging to businesses in the night-time economy, which could suffer complaints from residents housed in newly created homes close by. Equally maintaining continuous retail frontage is very important in encouraging footfall, and that breaking this up with residential development would be counterproductive.

It also removes the Local Authorities ability to plan for Town Centres and would make any economic development initiative and strategies impossible to implement, having a significant and negative effect on the wider local economy and employment opportunities. This would be particularly significant in smaller market towns, where the local economy can be particularly fragile. Equally this greater flexibility is highly likely to devastate small village centres, which provide an in valuable service to those who are unable to travel to larger shopping centres.

During the current pandemic it has been shown that these small village shops have provided a lifeline to those vulnerable members of the community. Were there be opportunities for this commercial landlords to change the use of these shops without the need for consent and ultimately consultation, these units in rural areas would undoubtedly be lost to a far more profitable residential use. Again clearly demonstrating that these policies are developed in an urban context.

It is also considered that whilst this flexibility may deliver some housing in areas where house prices are particularly high and aspirational living standards are low, the cost of renovation and developers profit would lead to an extremely low quality housing offer or not actually delivering the number of houses anticipated, instead just adding greater uncertainty around the long term future of town centres, which historically have been considered the heart of a community.

The continued erosion of influence and control afforded to the planning profession and elected members, representing communities undermines the transparency of the process and is in direct conflict with a plan led system.

**Where the right might apply**

**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?

Yes. The very fact that an area has a designation such as this indicates the importance and value of the street scene, centre or area. Any unregulated development would undermine the statutory duty of the Local Planning Authority to protect such areas and would be extremely detrimental, causing irreparable long term damage to the special character and setting of town and village centres across the country.

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

No. The very fact that an area has a designation such as a conservation area indicates the importance and value of the street scene or centre, which usually represent the historic core of an area. Any unregulated development would undermine the statutory duty of the Local Planning Authority to protect such areas and would be extremely detrimental, causing irreparable long term damage to the special character and setting of town and village centres across the country.

Equally the proposed changes does not take into account the more 'key' or 'primary' shop frontages which is essential to ensure the traditional town centre, particularly small market towns, still retain its function and 'feel' as a town centre. The proposal will fragment the shop frontages and will further threaten the existence of rural town centres which is already struggling with the fragility of the retail and food and beverage sector, compounded by the current pandemic. Conversion to residential is generally irreversible due to the higher value of residential units and the proposed PD changes may completely alter the function of the Market Place which has often been established since the medieval times.

**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?

No. For the same reasons above. It is imperative that design and quality as well as other material planning considerations be properly assessed in order to protect the special character and historic integrity of an area. The loss of the commercial use of a ground floor should remain the consideration of the Local Planning Authority as part of a planning application to allow full and proper assessment of the impacts of such a change.

**Matters for local consideration through prior approval**

**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?

No. The matters set out in paragraph 21, whilst going some way to assess the appropriateness of residential development, it does not go far enough and there are a number of emissions. Full and proper consideration of all material planning matters must be open to the Local Planning Authority to enable well-designed, quality residential development in town centres so that it can support wider economic

development strategies and initiatives which are necessary now more than ever given the fragility of these important community assets.

Fundamentally, it needs to include provision for proper consideration of the impact on the viability and vitality of existing retail / commercial centres, and upon established retail frontages.

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

Yes. The utilisation of direct permitted development or even prior approval does not allow for a full and proper consideration of the development. There is no detail provided on how design, residential amenity, viability, access or how the mitigation on the impacts of infrastructure may be secured through s106 agreements. As currently set out the proposals will potentially allow for the total and complete decimation of town and village centres.

This is also pertinent in smaller rural communities whereby key services could otherwise be inadvertently lost as a consequence.

**Applications for prior approval and fees**

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

Yes, as it requires the Local Planning Authority to both administer and assess an application. The most appropriate way of making improvement to the effectiveness and efficiency of the planning system is not to de-regularise it, encouraging speculative, poor quality development and design, in direct conflict of the Build Better, Build Beautiful commission, it is instead to allow Local Planning Authorities to properly cover their costs and effectively resource teams to service demand.

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

No. This is not enough to cover the costs of providing the service of both administration and assessment. Pursuing such a low fee will result in either the Local Planning Authority continuing to run down already under-resourced teams or other applications/applicants having to supplement these applications which wholly inequitable. All developers/applicants must pay a fair price for the services they call upon. Prior approvals require all but the same level of work as a full planning application but attracts a much lower fee, undermining the service at the core.

**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. It undermines the principle of a plan led system and is inconsistent with requirements of the NPPF and wider government ambitions for economic regeneration of town and village centres.

Ultimately there is no evidence to suggest that this proposal will support town centres. It will either have the effect of closing down shops/leisure provision in the lieu of residential development or equally in many areas due to viability it is unlikely to provide the quantum of housing expected and only create greater uncertainty and doubt over the future of town and village centres, impacting on commercial investment opportunities. The unintended consequence of this proposal will be far reaching.

Any changes to the planning system in regard to retail need to be considered as a broader package of measures to consider measures to support the retail industry at a critical juncture where it is reeling from various influences undoubtedly exacerbated by the current health pandemic.

#### **Public Sector Equality Duty Assessment and impact assessment**

**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, the proposal ignores the negative impacts on businesses, communities and local planning authorities? Focusing on speed, certainty and reduce costs, benefiting property developers/development industry only.

Local Planning Authorities will receive reduced fees, the quality cannot be controlled appropriately, living standards and amenity will be affected, communities will lose their voice in the planning process, therefore reducing transparency and finally businesses who rely on town centre locations will be priced out of the market and unable to secure premises. Which is in direct conflict with the Governments aspirations for this proposal.

**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. There is significant concern that conversion of existing buildings, due to existing constraints would lack the accessibility requirements to appropriately accommodate those with disabilities, therefore excluding a whole section of people from being able to live in these homes, further compounding issues with existing housing stock and accessibility issues.

#### **Providing further flexibilities for public service infrastructure through permitted development rights**

**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 greater?

No. The permitted development rights already provide enough flexibility to allow small scale development by these establishments. Whilst it is accepted that some flexibility is needed to allow some development to take place quickly, extending the rights beyond this increases the impact of the development on the wider area. There are also potential issues around development creep, monitoring and controlling development that does not meet the new permitted development criteria.

The consultation doesn't qualify how the new permitted development rights will affect listed buildings or conservation areas. It is considered, given the sensitive nature of these areas that Permitted Development rights should not apply to these building subject to such restrictions.

Finally, greater flexibility of permitted development rights also removes all consultation and engagement with the public, leading to the development industry practices becoming less transparent and accessible to the public.

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

Yes. Providing the proposed 10 meter buffer from a site boundary is applied. The provision should refer to the boundary of the site as distinct from the curtilage given the latter is subject to case law interpretations.

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

No. Many of these buildings are located in or close to residential developments and as such an increase beyond 6m is likely to create an unacceptable impact on the amenity of surrounding areas.

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

There are no prisons within this Local Planning Authority and so it is difficult to comment on the appropriateness of this proposal.

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

Yes. Expanding on comments provided in Q7.1 Extending Permitted Development rights removes the usual checks and balances applied to development such as this and therefore removes the opportunity to assess impacts beyond just the physical presence of the building, including but not exclusively, impacts on highways, drainage, parking. Extending Permitted development rights is also at odds with a 'plan led system' in relation to both the strategic local plan and also neighbourhood plans, particularly devaluing the effort and time communities put into their development.

**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. The proposal removes the ability for communities to comment on proposal and influence development within their area. It removes the ability to monitor and influence quality of design and materials and finally, extending permitted development

rights impacts on the Local Planning Authorities' fee income and ultimately undermines the commission Build Better, Build Beautiful as it removes the scrutiny of both these applications but also others as fee income is steadily eroded by the extension of Permitted Development and Prior Approval applications. All of which still require an element of monitoring and assessment, irrespective of whether it is a paid service or not. Extending Permitted development rights is also at odds with a 'plan led system' in relation to both the strategic local plan and also neighbourhood plans, particularly devaluing the effort and time communities put into their development.

**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. Greater reliance on permitted development rights means the wider consideration of design, quality and space standards is lost, ultimately impacting on the community as a whole including those who share a protected characteristic.

**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. The proposal removes the ability for communities to comment on proposal and influence development within their area. It removes the ability to monitor and influence quality of design and materials and finally, extending permitted development rights impacts on the Local Planning Authorities' fee income and ultimately undermines the commission Build Better, Build Beautiful as it removes the scrutiny of both these applications but also others as fee income is steadily eroded by the extension of Permitted Development and Prior Approval applications. All of which still require an element of monitoring and assessment, irrespective of whether it is a paid service or not. Extending Permitted development rights is also at odds with a 'plan led system' in relation to both the strategic local plan and also neighbourhood plans, particularly devaluing the effort and time communities put into their development.

**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. The proposal removes the ability for communities to comment on proposal and influence development within their area. It removes the ability to monitor and influence quality of design and materials and finally, extending permitted development rights impacts on the Local Planning Authorities' fee income and ultimately undermines the commission Build Better, Build Beautiful as it removes the scrutiny of both these applications but also others as fee income is steadily eroded by the extension of Permitted Development and Prior Approval applications. All of which still require an element of monitoring and assessment, irrespective of whether it is a paid service or not. Extending Permitted development rights is also at odds with a 'plan led system' in relation to both the strategic local plan and also neighbourhood plans, particularly devaluing the effort and time communities put into their development.

**What public service developments should be in scope?**

**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)? Please give your reasons.

No. The question is poorly framed in that it promotes a 'yes' answer but actually the question should be one of principle of whether a new public service application process is appropriate at all. The proposal intimates that it is the planning process alone which creates delays in the delivery of public service development which is not the case.

**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?

No. From the consultation documentation, it is not clear the full extent of the proposal and as such difficult to comment on the proposal. However it is apparent that the consultation considers that by speeding up the planning process the delivery of public service developments will also be expedited. This assumption completely misses the point that all development, but specifically public sector development is complex and highly technical in nature.

The planning process not only assess the technical aspects of a planning application but also gives the only opportunity for the wider community and stakeholders to engage in a transparent and meaningful consultation process. Speeding up just this one part of the process is inequitable and fails to properly respect the democratic process and the local issues with any project of such scale.

Ultimately the statutory 8-week and 13-week determination times are arbitrary and bear no relationship to a project that may have been in development from concept to the planning application stage for several years. In reality given the importance of transparency and democracy, how can it be justified that a project that take anything up to 10yrs to develop should then be quickly considered and assessed within a matter of weeks by the Local Planning Authority? Thus removing the opportunity for proper and full public scrutiny.

The outcomes of planning decisions have significant impact on the economy, environment and society and as such will have lasting impacts, therefore full and proper consideration of the application must be allowed.

It is considered that improvements to the process of public service development could be undertaken, however this goes well beyond just the remit of planning, specifically;

- in how the public sector procure and fund projects;
- in how the public sector engages in the planning system both in terms of local planning and planning applications;
- an openness to engagement both with the planning authority and stakeholders, including the public;
- a meaningful and thorough engagement in pre-application discussions, one that is genuine, provides time for collaboration and differences of opinion to be resolved – indeed such engagement could be mandated by new legislation rather than left as optional;
- an opportunity for key senior planning authority officers to be effectively embedded in the application team so that policy can be properly understood

and address, constraints identified as early as possible and resolved where possible, all leading to a better quality application that has more likelihood of being determined more quickly but more importantly an application that meets the relevant quality expectations;

- the need for statutory consultees to be engaged thoroughly and with meaningful penalties for their failure to do so; and finally,
- that the planning application stages and the local political and democratic accountability that must be in place to challenge development proposal are respected and given due regard by the development programme having a sense of realism and not simply a knee-jerk line in the Gantt chart that gives the statutory period as the determination deadline. It is often the case that those promoting projects fail to recognise or grapple with the dynamics of the planning process and therefore give misguided direction on timescales.

There are so many ways in which the Government could and should legislate here to improve how the public sector performs in delivering the infrastructure projects that would be of benefit to the country as a whole. It is not just the planning application, it is a whole system issue that needs a thorough investigation and proportionate change to fully support the modified process.

Changing the planning system in isolation will remove the limited transparency already afforded public sector projects and whilst it may reduce that determination timescale by 3 weeks it is likely to increase delays due to an increase in decisions on appeal due to non-determination, and more serious and comprehensive legal challenges beyond the permission being issued.

#### **Faster decision-making**

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

No. See answer to Q12.

#### **Consultation**

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

No. See the detailed response provided for Q12.

Fundamentally denying the community their opportunity to understand a proposal and voice their genuine concerns is undemocratic and undermines the role and accountability of the local planning authority and its elected Members.

Equally, reducing the consultation period means statutory consultees must be properly resourced in order to respond. Many statutory consultees are not properly resourced even now and fail to meet the 21 days. Reducing the timescales will only compound this issue and prevent further proper and appropriate scrutiny of technical details. This approach is embedded in short-termism and expediency and fails to recognise the wide ranging impacts of poorly considered development and pushes issues into the future,



which invariably requires emergency response by the public sector, which always has greater impacts and costs more in the long run.

It would also usher in confusion and imbalance to the public – namely they have 21 days to comment on a neighbour’s extension, but only 14 days to comment on a new prison being built next door?

**Notifications to the Secretary of State**

**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 it anticipates making a decision?

No. It is impossible to understand what benefits this would bring to the planning system and more specifically in relation to transparency and efficiency. All this does is centralise bureaucracy and implies Local Planning Authorities are not trusted to undertake their statutory duty.

**Other matters**

**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?

No.

The emphasis is on the wrong team in the wrong part of the process

The requirement should be on those leading public sector developments to actively engage with the planning system from an early stage. The planning system is a valuable service which provides an opportunity for transparency and independent assessment of development.

This service should be held in higher regard and should be given every opportunity to excel. Better outcomes would be achieved if the emphasis on the public sector having to work collaboratively was mandated from the concept stage of the development to ensure a genuine adherence to advice provided, including time and resources allocated to the pre-application process. Equally ensuring adequate resources for all statutory consultees so that the performance and engagement of statutory consultees in a specific timeframe could be required.

Issues with the delivery of public sector development delivery goes beyond the planning process itself.

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

It is considered as a primarily rural Local Authority that the measures, specifically in relation to the Use Class Order and permitted development appear to completely disregard the impact of such flexibility on small rural economies and market towns, in

effect decimating an already fragile commercial offering in lieu of the provision of sub-standard housing.

As a more broad observation, it is again disappointing that the emphasis again is on local planning authority performance. Collaboration should be at the heart of all public sector development projects the emphasis of this consultation is in the wrong part of the project.

There is a complete lack of detail and consistency in relation to how these proposed changes would work effectively with current Planning Policy, from the NPPF to Neighbourhood Planning. This lack of consistency, coherence and certainty creates delays, mistrust and apathy for a service which seeks to protect and enhance the built environment and has wide ranging influence and implications for society, the environment and economy. It also completely disregards the invaluable democratic function provided by the planning system, allowing transparency and scrutiny of development fundamental to the growth and sustainability of the country.

The wide ranging ramifications and unintended consequences of this wholesale erosion of the planning profession will be felt for generations to come.

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

Yes. As detailed in the answer to Q17.1, but to re-emphasise a properly resourced Local Planning Authority and an overhaul of the project methodology of public sector development delivery, from procurement to collaboration requirements and financing to name but a few.

**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. For all the reasons stated above.

### **3. 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?

No. It is agreed that a review of the Use Class Order is necessary due to the amount of changes made in recent years, making it very difficult to navigate. However it is impossible to provide broad agreement to principles without understanding the detail. It only understanding the detail can the implications of the changes be fully appreciated. As set out in the answers to Q1 to Q6.2 allowing increased flexibility between categories without proper and thorough assessment of the impacts and implications has the very real potential to negatively impact the vitality and vibrancy of society as well and the environment and economy.

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

Yes. It is almost impossible to provide full and proper commentary on the proposal without the full details of the proposed changes and how the use class order would be structured, including exemptions, including changes to size limits approaches to listed buildings and conservation areas etc.

However – one benefit would be to consolidate the Prior Approval process. We currently have disparity whereby a different process is engaged for a different “permitted development”. i.e. for demolition the applicant puts up a site notice, for others the local planning authority does. Some take 56 days, some have a different time period. It is suggested that a single approach is taken, with the matters for prior approval set out under the relevant part of the Development Management Order

**Q20** Do you agree 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?

Generally limited concern around pay day loan shops and betting shops changing to uses within use class E, however concerns would arise if greater flexibility was given for uses to change to pay day loan and betting shops - due to negative social impacts.

It is difficult to provide comprehensive commentary on the consequences, without clear detail on these proposals and how they would be managed and what exceptions would apply. Equally as said before, greater flexibility of Permitted Development rights could lead to issues around cumulative impact of uncontrolled development.

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

Greater flexibility will not necessarily result in better outcomes for town centres and other areas, particularly in rural local authorities where the economy is already fragile. Development in England is based on a plan led system, supported by research and evidence. Allowing the market to completely drive the format, function and layout of our communities is unsustainable and result in unplanned and ultimately damaging development.

Equally greater flexibility within the use class order will impact on Local Planning Authority fees and resourcing which will further compound the existing resourcing and capacity issues within planning departments, preventing professional being able to properly consider development proposal, driving up quality and monitoring, generally reducing the effectiveness of the system as a whole.

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

Yes. All the consultations on planning coming out of the Government have been around the de-regularisation and simplification of a system which has evolved as a result of the need to consider and balance many complex issues related to development. It is of grave concern that the direction of travel continues to focus on the erosion of a service and associated professionals which provides impartial checks and balances of development schemes.

The service provided by Local Planning Authorities is also the only part of the whole development process where both democratically elected members and the community have a real say in the future of their communities and country as a whole.

The agenda to erode the influence and scope of the planning process and regulation of development appears to come from a very one sided view of cheapen and expedite, not recognising or understanding the complexities and importance of the role performed by planning professionals and others. In simple terms the unintended consequences of over simplification of a system dealing with numerous complex issues will lead to huge ramifications for town centres, communities and the historic significance of our country for generations.