

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.

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 your 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 *

Last name *

Email address

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

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

Organisation (if applicable)

City of York Council

Position in organisation (if applicable)

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 checked="" 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	<input type="checkbox"/>
Other (please specify):	<input type="checkbox"/>

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

Education section	
Health sector	
Prison sector	
None of the above	X

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:

There needs to be limitation to ensure that an acceptable level of housing is achieved. The potential for large-scale conversions without the provision of for local community infrastructure is a significant concern. Similarly re-purposing out of town retail should be subject to planning permission given the scale, surroundings and location of such uses.

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:

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

Agree	X
Disagree	
Don't know	

Please give your reasons:

Only if subject to safeguards that allow the LPA to consider the impact on the character and appearance of the area in accordance with existing legislation. To ensure that the historic character is appropriately safeguarded. York is characterised by its historic nature and to not

have suitable considerations in place raises significant concerns

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:

The use and appearance of commercial buildings can be a key component of the character and appearance of conservation areas. Although consequential changes to buildings in historic areas also need to be considered and this is not confined to ground floors, the character of York's Conservation Areas needs full consideration when assessing any approvals

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	X
Disagree	
Don't know	

Please give your reasons:

All the matters (outlined below) are key to assessing the acceptability of a proposal.

- Similar to other permitted development rights for the change of use to residential:
- flooding, to ensure residential development does not take place in areas of high flood risk
- transport, particularly to ensure safe site access
- contamination, to ensure residential development does not take place on contaminated land, or in contaminated buildings, which will endanger the health of future residents
- To ensure appropriate living conditions for residents:
 - the impacts of noise from existing commercial premises on the intended occupiers of the development
 - the provision of adequate natural light in all habitable rooms
 - fire safety, to ensure consideration and plans to mitigate risk to residents from fire
- To ensure new homes are in suitable locations:
 - the impact on the intended occupiers from the introduction of residential use in an area the authority considers is important for heavy industry and waste management

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

Yes	X
No	
Don't know	

Please specify:

1. All elements of noise related impacts (eg transport related noise) not just commercial impact.
2. Air Quality impacts
3. Specific reference to the provision of adequate waste and re-cycling storage
4. The adequate provision of services provided by class E and the sustainability of a key shopping area. We are concerned that the proposed rights may result in the loss of retail and service uses that will undermine town and district centres and potentially isolate remaining commercial uses by reducing local footfall because of visitor perceptions at a street or shopping area level.
5. The adequate provision of medical and health facilities; crèche, day nurseries and day centres in an area. The proposed PD right may result in the loss of such facilities to residential use undermining local and national policies to retain such uses and the potential loss of uses from accessible locations.

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:

The work and resources required to undertake consideration of such applications should be funded through the application process

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

Yes	
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No	X
Don't know	

Please give your reasons:

This is insufficient to cover all costs including the administration and assessment of the process, undermining the ability of the LPA to provide its other functions.

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:

Serious reservations as to the implications for both city and local centres. Also concerns with regard to the quality of housing coming forward from the proposals.

The consultation proposals do not include safeguards on the adequate provision of shops and services and the impact on the sustainability of key shopping areas. Whilst the impact of trading conditions on retailers and commercial property owners is acknowledged, there is concern that the consultation proposals may lead to the loss of retail and service uses that will undermine town and district centres and potentially isolate remaining commercial uses by reducing local footfall because of visitor perceptions at a street or shopping area level. Retaining the existing permitted development right condition which allows the LPA to consider such issues, whilst recognising the changes taking place in the retail industry, would enable that balance to be achieved.

The new use class E includes the provision of medical and health facilities; crèche, day nurseries and day centres. The proposed PD right may result in the loss of such facilities to residential use undermining local and national policies to retain such uses and the potential loss of uses from accessible locations.

Whilst we encourage the provision of increased residential accommodation in our city and district centres. We consider that particularly in historic areas, new residential uses would prove to be more popular for visitor accommodation, negating the benefits to residents outlined in the consultation.

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:

Businesses – this is too broad a definition, it could have a number of impacts on different businesses.

There is no provision that would provide safeguards for existing businesses who do not wish to leave premises at the end of their lease, or small businesses that may be put under pressure to loose space to allow for conversion. The planning process allows for such considerations, balancing the needs of communities with the rights of building owners to develop their properties. The proposals would preclude the examination of whether alternative businesses may wish to take up vacant space. The loss of this potential and alternative premises for businesses to relocate to will impact upon economic growth.

Other businesses may not feel that feel the monetary savings of applications brings a better outcome or service.

Communities – would no longer be able to have the same say in the planning application process due to the timescales in involved in prior approvals. Ad hoc and not plan lead development would lead to a mixture of developments and may lack social cohesion.

Local Planning Authorities – The Governments assertion 'Local planning authorities would benefit from reduced volume of planning applications, offset by a reduction in fees' is short sighted and questionable. Prior approvals require as much work if not more than a regular planning application with significantly less fee. Local Planning Authorities have been significantly under resourced for a number of years due to changes such as these proposed.

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 new use class E includes the provision of medical and health facilities; crèche, day nurseries and day centres. The proposed PD right may result in the loss of such facilities to residential use undermining local and national policies to retain such uses and the potential loss of uses from accessible locations adversely impacting on the elderly, people with disabilities.

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:

Agree in principle. However there are concerns regarding local considerations from what could be significant scale developments including heritage, traffic and amenity impacts. There appears to be no reference to the positioning of windows in new development or consideration of the potential impact from possible displacement of car parking and the knock-on effect for road safety in surrounding streets.

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:

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	x
Disagree	
Don't know	

Please give your reasons:

Agree in principle. However there are concerns regarding local considerations from what could be significant scale developments including heritage, traffic and amenity impacts. There appears to be no reference to the positioning of windows in new development or consideration of the potential impact from possible displacement of car parking and the knock-on effect for road safety in surrounding streets.

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

Yes	X
No	

Please specify:

Permitted development rights for such facilities should exist but local consideration should be a key point of the process.

The proposed right should include limitations regarding windows in proximity with boundaries to residential property so as not to significantly impact upon living conditions.

The proposed right should include limitations where existing car parking is proposed to be lost to development. Whilst supportive of moves toward more sustainable travel options for hospitals and schools, the potential for displacing parking to local streets and any mitigation should be part of a decision making process.

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	
No	
Don't know	X

If so, please give your reasons:

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	X

If so, please give your reasons:

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	
No	
Don't know	X

If so, please give your reasons:

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	X

If so, please give your reasons:

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:

Yes but with the very strong caveat that the resources have to be made available to facilitate this. This would involve having sufficient officers for all elements of the planning application process. It would not be feasible without extra resources

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	X
No	

Please give your reasons:

Subject to the points raised in response to Q11 and with the retention for agreements to be made with the applicants as exist at present.

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

Yes	
No	X

Please give your reasons:

Members of the public/consultees should be given sufficient time to fully consider applications. This change would undermine public confidence in the planning process.

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:

This would require additional resources and would be a burden on the authority. It is unclear what benefit would be derived from such notification.

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	X

Please give your reasons:

The wording of this question is concerning as Local Planning Authorities would always seek to proactively engage to resolve key planning issues. Pre-application engagement can only be initiated by the applicant. It is a key part of the planning process which is not always undertaken by public service bodies and if this was made a requirement it would have a positive impact upon application timescales.

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	X
No	

Please specify:

As outlined above pre-application engagement should be a requirement of the process and appropriately funded.

Should the public notification period be reduced to 14 days it should be a requirement that pre-application public consultation is undertaken by the public service body.

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:

Reducing the times scales for commenting on applications may cause a disadvantage.

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:

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

Yes	
No	X

Please specify:

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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:

The reuse of such shops for other uses should be supported
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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	X

Please give your reasons:

Further information is required around the specifics of this element before it would be fully supported. The examples given do not give sufficient information to allow a comprehensive response to be given.

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

Yes	X
No	

Please specify:

Permitted development rights are complex and at times difficult to navigate

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.