

# 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	X
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# Privacy Notice

The following is to explain your rights and give you the information you are 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	X
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# Respondent Details

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

**First name \***

South East England Councils

**Last name \***

Secretariat

**Email address**

Communications@secouncils.gov.uk

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

Organisation	X
Individual	

**Organisation (if applicable)**

South East England Councils (SEEC)

**Position in organisation (if applicable)**

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

Developer	
Planning consultant	
Construction company or builder	
Local authority	
Statutory consultee	
Professional organisation	
Lawyer	
Charity or voluntary organisation	X
Town Council	
Parish Council	
Community group, including residents' associations	
Private individual	
Other (please specify):	

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

Education section	<input type="checkbox"/>
Health sector	<input type="checkbox"/>
Prison sector	<input type="checkbox"/>
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**

## **Introduction**

*South East England Councils (SEEC) is a cross-party, voluntary membership association recognised as a representative regional group by the Local Government Association (LGA).*

*SEEC brings together District, Unitary and County councils to promote the views and interests of all tiers of local government across the South East. The majority of the 70 local authorities across the South East region are members of SEEC.*

*It should be noted that this response is a compendium of feedback received from various of our member councils. If any clarification or further detail is required on any point raised, the SEEC secretariat would be delighted to help facilitate this.*

*Additionally, it is important to note that SEEC represents all tiers of local government across the South East. **This response will reflect the opinions of those councils which have differing powers and responsibilities at present, regarding housing and planning.***

*Therefore, depending on the question, have broken down the responses, be it from a county, unitary, as well as at a borough and district level. This would best illustrate the differing views of council, depending on their type.*

*Where there was consensus – or a majority view – among councils that have provided input to this consultation on the questions below, we have indicated a ‘agree’, ‘disagree’ response, and likewise, in instances where there was not, we’ve indicated a ‘don’t’ know’ response.*

**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:

### **County Council**

Agreed that a new national permitted development right for the change of use from the commercial, business and service use class to residential would assist housing delivery. While at the same time, citing that a balance to be struck in providing opportunities for housing delivery and maintaining the quality of residential buildings and places for sustainable communities which would benefit from planning intervention, not least to assess residential amenity and place-shaping to reduce health inequalities and carbon emissions. Notwithstanding that in some areas a lifting of this restriction may be appropriate but a general, national lifting of restrictions could negatively impact on the vitality and vibrancy of commercial centres or business districts with knock on negative impacts on communities both within the area and elsewhere.

The proposed lifting of restrictions may benefit from being a discretionary local power rather than a national lifting of restrictions on permitted development rights to enable local authorities to manage the sustainable development of their areas. The number of different uses which fall within use class E

are very broad and would need to be assessed for their appropriateness at the local level, bearing in mind that a national lifting of restrictions could substantially change the character of urban areas with long lasting negative impacts on local communities, their travel patterns, access to employment, commercial and business services and the knock-on impacts for the vitality and vibrancy of these areas.

In addition: A national lifting of restrictions on permitted development rights could significantly change the character of the built environment across this county and would require intervention at the local level to ensure the benefits do not outweigh the negatives from this proposal.

#### **Borough Council #1**

No: The lack of a size limit means that several large format retail units could be lost from town centres without requiring permission, significantly impacting upon the vitality and viability of town centres. Once lost, it would be extremely difficult to provide large retail uses back into centres. The loss of a large or an 'anchor store' makes centres much less attractive places to visit. This element of the proposal, therefore, may have the consequence of doing more harm than good to centres.

#### **Borough Council #2**

No. Whilst the office to residential permitted development right has operated without a size limit since its introduction in 2013, other existing rights have had relatively low size limits, of 150 sq m in the case of A1 and A2 uses and 500 sq. m in the case of B1c uses. This would therefore represent a considerable change. It could mean that very substantial retail buildings that are key to the vibrancy of a town centre for instance, or significant local employers, could be lost without any consideration of the impacts that will have on local communities and the economy.

### **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:

#### **County Council**

There was agreement that this specific right should not apply in these areas. In their view, this right would reduce the limited number of existing commercial, business and retail units available – especially in predominately rural area that provide key local facilities.

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

Agree	
Disagree	X
Don't know	

Please give your reasons:

#### **County Council**

The proposed changes of use between commercial and residential has the potential to significantly change the special character of conservation areas which may not always be appropriate.

No. A significant number of Class E uses are located within town centre Conservation Areas, designated because of their historic nature and their character and appearance. The character of a place is more than physical structures, it is a holistic appreciation of place. Unmanaged change carries significant risk of undermining the special character and the designation of the conservation area itself. The right would lead to future pressure for physical changes to buildings within CA's, undermining their characters.

**Borough Council #1**

No. Changes of use between commercial and residential can fundamentally alter the character of an area. Conservation areas are designated based on their special architectural or historic interest, and the presence of commercial activity within a conservation area can be an essential part of that historic interest. Many conservation areas include historic town centres that have served their communities for hundreds of years and failing to ensure the continuation of that activity risks causing serious harm to the historic interest of an area. This particular Borough Council is currently working with Historic England on a High Street Heritage Action Zone project relating to various streets in conservation areas in the town centre that in some cases have had a retail role for hundreds of years. This will focus on part on historic shopfronts. Any loss of ground floor retail or related uses in areas such as this would have a severe detrimental impact on the historic interest of the 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	X

Please give your reasons:

**County Council**

There is a recognition that a flexible approach is needed on granting prior approval on the impact of the loss of ground floor use to residential, though, this right should extend to all areas not just conservation areas.

Consideration needs to be given to the cumulative impact of the loss of ground floor use to residential on a large scale, particularly where this has an impact on the character of the local area or the vitality and viability of the town or city centre. Our concern is that prior approvals are not enough to manage significant change in urban areas from changes to these proposed permitted development rights. A planning application rather than a prior approval would be preferential to properly consider the impact of the proposed changes.

**Borough Council #1**

Yes. There should be consideration on the impact on the loss of a ground floor use to residential in a conservation area should be considered. However, as set out elsewhere in our response, this is best dealt with through a planning application.

**Borough Council #2**

No. This should not apply in 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	
Don't know	X

Please give your reasons:

**County Council**

Matters set out in paragraph 21 of the consultation document should be dealt with through a planning application rather than a prior approval process and should be subject to local consideration. There should be full consideration given to several factors, including energy efficiency, transport impacts, – as well as be subject to local considerations, including strategic planning in terms of the area's special context, notably green infrastructure, and amenities.

**Borough Council #1**

The matters which an LPA may consider under the prior approval exclude significant considerations which affect both the high street and commercial areas and the quality of accommodation provided to residents. The proposed permitted development right is likely to lead to pepper potted and ad-hoc conversions to residential uses along the high street.

A continuous retail frontage is important in attracting shoppers to a high street and the fragmentation of the retail frontage is likely to lead a decrease in visitors and footfall, impacting their vitality and viability and compounding the issue of struggling high streets rather than helping them. It is significant that the consultation does not seek to protect primary retail frontages from conversion, so even the main retail offer in larger centres could be lost.

**Borough Council #2**

Matters set out in paragraph 21 of the consultation document are best dealt with through a planning application rather than a prior approval process. However, if the Government proceeds with the introduction of this permitted development, all matters in paragraph 21 should be subject to local consideration.

**Borough Council #3**

Diversity of uses within a village centre contribute to the appeal and character of a conservation areas and therefore at a minimum prior approval of the impact of the loss of ground floor use to residential should be required.

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

Yes	X
No	
Don't know	

Please specify:

**County Council**

The changes of use should be subject to a planning application where the full range of planning matters can be considered. Further consideration is needed of the impacts of introducing this permitted development right in terms of impact of the loss of commercial, business and service buildings on the vitality and viability of central business districts, town and city centres, proximity to other housing and local amenities and for the reasons set out above.

**Borough Council**

Yes. The proposal does not fully consider the function of place. Whilst residential always has provided an important element in town centres and flats above shops etc are commonplace, the introduction of significant ground floor residential use, especially within established centres will be harmful to the vitality of these centres and undermine their ability to meet the general retail and service needs of their communities.

A significant number of specialist or marginally viable retail uses are likely to be lost because of the proposal. These are units along secondary frontages or smaller centres which could not afford higher rents. Removing the requirement for planning permission is likely to make many landlords look to residential given the higher returns available. In residential areas outside of the main centres, uses such as nurseries and day care centres as well as smaller retail units serving the local population, could also be lost.

### **Borough Council #2**

Yes. The Council's view as set out in answer to question 5 is that these changes of use should be subject to a planning application, where the full range of planning matters can be considered. However, if the government proceeds with introduction of this permitted development right, there are a number of other planning matters that are essential to consider.

Firstly, condition (d) to existing class M changes of use from A1 and A2 use to residential requires local consideration of:

- "whether it is undesirable for the building to change to a use falling within Class C3 (dwelling-houses) of the Schedule to the Use Classes Order because of the impact of the change of use—*
- (i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or*
  - (ii) where the building is located in a key shopping area, on the sustainability of that shopping area"...*

It is essential that this condition be applied to the new permitted development right, and that its wording be amended to reflect the fact that the right will also apply to medical and health services, day centres, nurseries etc, all of which provide key functions that are required to be in locations which can be easily accessed by members of the public. Introducing a permitted development right without this safeguard would lead to a hollowing out of important local shopping areas, reducing the viability of those centres, and could lead to loss of important local services, many of which may be the only such services within some areas. The introduction of additional residents will very rarely be sufficient to outweigh the loss of existing commercial activity in terms of footfall.

Secondly, the proposal includes the following consideration:

*"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"*

This should be expanded to also cover storage and distribution. This is an activity which could equally generate impacts on adjoining residents, including disturbance at unsociable hours. Whilst noise is covered by the proposal, lighting is not, and significant levels of lighting are often required in distribution premises. Likewise, air quality and public safety, which can be impacted by large numbers of HGV movements associated with storage and distribution, are not proposed to be covered. It is also an activity which is essential to our economy, as demonstrated particularly by the importance of home delivery during the pandemic, but also with likely implications as a result of Brexit. Introduction of residents in inappropriate locations could curtail the operations of these essential businesses.

Thirdly, consideration should be given to air quality. Residents should not be placed in locations where they will be subject to unacceptably poor levels of air quality, in particular where there is no opportunity to mitigate these impacts through the planning process. The government published the Clean Air Strategy in January 2019, identifying air quality as the greatest environmental health risk in

the UK, but the permitted development right as proposed would risk development taking place in areas where people would be put at precisely that risk, without any safeguards.

Fourthly, the impact on the local economy through loss of business premises should be considered. We have seen an erosion of cheaper office space in Reading through permitted development rights over recent years, and this space is often important for small and growing businesses that form a key part of the health of the local economy. Now that such office accommodation within town centres has been exhausted, we are increasingly seeing this happen within important employment areas. Allowing this to continue without consideration of these impacts could seriously undermine economic growth. Condition (b)(iv) of class PA changes of use, from light industrial to residential, covers this to an extent but is not currently proposed to be carried forward into the new permitted development right.

The considerations above illustrate why changes of use are best dealt with through a planning application process.

### **Borough Council #3**

Under the prior approval route, the impact on the intended occupiers from the introduction of residential use in an area the authority considers is within an AQMA should be included.

**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:

### **County Council**

A planning fee per dwelling house set at an appropriate fee would be needed to assess the impact of the change of use. If this were set nationally then a regional county council would recommend a national review of planning fees to properly assess a planning application.

### **Borough Council #1**

They should be set at the same rate as the equivalent planning application. Although marketed as a 'light touch' approach, prior approvals have become increasingly complex to consider, particularly given the questionable drafting of some of the recent SI's and can be comparable to a planning application in terms of time taken to consider them. The proposed fee per unit (£96) for each application is significantly less than the equivalent planning application (£462) and this represents a large loss of income for the Council when the work associated with dealing with them is not significantly less.

### **Borough Council #2**

Yes. A flat fee of £96 per application would not be remotely sufficient to cover the costs of assessing the application, including the local considerations outlined in the proposal, and would simply put further pressure on already-stretched local authority budgets.

### **Borough Council #3**

Yes, a prior approval fee is needed.

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

Yes	
No	
Don't know	X

Please give your reasons:

**County Council**

Yes, the proposed permitted development right should still take account of the proper suitability of the proposal for housing, this should not be seen as a cheap solution to deliver housing. The fee should reflect the resources needed to properly assess the suitability of the proposal for housing, particularly given the likely impact that many dwellings may arise from this type of change of use application.

**Borough Council #2**

No. The fee should cover the cost of assessing the application for prior approval. The proposed permitted development right includes a variety of matters for local consideration, including noise, flooding, contamination, and natural light.

**Borough Council #2**

The fee should be greater than the £96 per dwelling currently sought under the planning application route in the light of the assessment work needed.

**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:

**County Council**

The size and scale of business, commercial and service buildings have the potential to yield very significant housing numbers as these buildings are converted into dwellings. However, the standards for noise, ventilation, insulation in commercial buildings are often very different to the standards required for residential use and the communities shaped in these places will have very different needs than communities shaped around commercial, business or service uses.

Intervention and regulation is needed at the planning stage to ensure the quality of new housing delivered through this proposed change of use is of the same quality as that required elsewhere in planning policy. The quality of amenity for new residents in these buildings and the shaping of local communities would need to be properly managed through the planning process.

**Borough Council #1**

Yes. As is often the case in recent consultations, the questions do not include whether the new right should be introduced at all. Our view remains that changes of use between commercial and residential uses are not appropriate for the permitted development process, which was intended to cover smaller-scale or less impactful developments. These changes of use can have a myriad of impacts on both the existing area and the residents of any proposal, and this requires consideration through a full planning application process, determined in accordance with local policies. The number of conditions to which such prior approvals need to be subject illustrates why full consideration is needed.

The research published by MHCLG in July 2020 on the quality of accommodation provided by office to residential permitted development identified a number of concerns. Whilst some of these concerns have been taken on board with the requirement for compliance with national space standards and for natural light, this has not been the case for all criticisms. The frequent lack of outdoor amenity space was cited in the report, for instance, and there is no proposal to address this in the new permitted development right. Nor is there any proposal to address another finding of the research, the dominance by one-bed or studio apartments, which does not necessarily respond to the need for homes in a local area. Both of these would be difficult to address as a local consideration for prior approval, and are much better handled within a planning application.

One of the issues that the considerations subject to prior approval can never resolve is the provision of affordable housing. In an urban authority such as ours, a significant amount of new dwellings are provided through changes of use. Restricting the ability to secure affordable housing in such developments, in order to provide mixed and balanced communities and address our severe affordable housing needs, leads to reduced supply of affordable housing. Our assessment is that, since the introduction of the office to residential permitted development in 2013, had the resulting office to residential prior approvals come forward by the planning application route, they could have delivered up to 570 affordable homes. This would have been a very substantial contribution to meeting housing needs in our area, and is a gap that is almost impossible to fill from other sources.

**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:

**County Council**

The permitted development rights proposed may impact negatively on the plan-led system and the ability to plan for the sustainable development of local areas particularly if done at scale – example include, but not exclusive to:

- The proposals may impact on the delivery of new housing sites and the ability of the local planning authority to negotiate high standards of design.
- The resource impact on local planning authorities could be significant, particularly if the permissions were granted without a planning fee to cover the work involved.
- There is a risk that mass housing delivered through the conversion of large commercial buildings could generate significant inequalities in housing and store up health, economic and social problems for the future.
- The rights will not replace existing Article 4 directions, but how long will Article 4 directions last to block permitted development rights?

**Borough Council**

Yes – significant detrimental impact upon all three groups.

**Borough Council #2**

Yes. The impacts are many and have been set out elsewhere. However, in summary, they include:

- Impacts on the viability of town and local centres through loss of shops and services:

- Impacts on local communities as a result of the potential decline of town and local centres through loss of commercial uses;
- Impacts on businesses, particularly small businesses, through the loss of commercial floor space, with knock-on effects for communities through impacts on the wider community;
- Impacts on businesses through introduction of residents into primarily commercial areas, which can potentially result in operations being curtailed;
- Impacts on local communities through loss of opportunities for securing essential infrastructure or affordable housing;
- Impacts on local authorities in the cost of considering proposals not being fully covered by the planning fees.

**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:

**County Council**

Yes. The permitted development right is proposed to be introduced without conditions that allow the local planning authority to assess the impact of loss of adequate provision of services. The proposed new permitted development right could lead to the loss of essential local facilities, which could have a detrimental impact on older people and people with disabilities who would be less able to walk longer distances to access essential shopping or medical facilities.

**Borough Council #1**

Many of the most vulnerable in the community, including some with protected characteristics, will be detrimentally impacted by the loss of accessible services and facilities that will result from this proposed permitted development right.

**Borough Council #2**

Yes. The permitted development right is proposed to be introduced without conditions that allow the local planning authority to assess the impact of loss of adequate provision of services and the sustainability of a local shopping area. These conditions currently existing in class M (changes of use from A1 and A2 to residential). Uptake of the proposed new permitted development right could lead to a hollowing out of centres which provide essential local shops and services, and could mean that local people are forced to rely on more distant facilities. This could have a detrimental impact on older people in particular, or some people with disabilities, who would be less able to walk longer distances in order to make essential shopping trips. Many older people may no longer drive. As the permitted development right will also now cover medical and health services, formerly in use class D1, this effect could also impact the ability to access such facilities for older and disabled people, particularly since many health facilities will physically lend themselves to residential conversion due to being within former residences. Policies in our Local Plan, as for many other authorities, provide that new development specifically for vulnerable people, including elderly people, should be in close proximity to a local centre, to ensure that these services are accessible. These policies would be undermined by the permitted development right as proposed.

# 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:

## **County Council**

Support the retained protection of playing fields but decision making upon how best to ensure expansion whilst enabling delivery of the curriculum, are decisions best left to the education authority not central government. We request that this is reviewed as part of this initiative.

The right will make the assessment of the floorspace more straightforward as most schools have had extensive additional building works carried out from when they were first built which is the current baseline for the permitted development rights.

## **Borough Council #1**

No. A 25% expansion of footprint on site could equate to a very significant amount of development, without any ability to test what this would mean on matters such as design, transport impacts or biodiversity. In the case of transport, impacts could be serious, and there would be no ability to secure contributions towards any mitigation.

The consultation does not make clear whether existing exclusions and criteria associated with permitted development right class M will continue. Land within the curtilage of a listed building should certainly continue to be excluded from this amended permitted development right. As it stands, the right applies in conservation areas subject to materials. However, if the changes would result in a 25% increase in footprint, this could have significant impacts on the character and historic interest of conservation areas (within which many schools, colleges and hospitals sit), many of which are defined by a sense of openness, setbacks from the frontage or green spaces. The benefits of expansion of the facility need to be weighed against harm to a conservation area through a planning application.

In paragraph 36 of the consultation, there is talk of the benefits of replacement of buildings with newer, more energy efficient buildings, but this is an assumption with which we would not necessarily agree. Planning policies seeking high standards of energy efficiency in new buildings may well instead be undermined by the expanded permitted development right.

## **Borough Council #2**

Yes, the general principle of changes to height / footprint limitations for schools, colleges and universities, and hospitals under Permitted Development is supported.

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

Agree	
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Disagree	
Don't know	X

Please give your reasons:

**County Council**

Yes, provided the restriction of 10 metres from the site boundary is maintained as set out in the consultation paper, this should raise little significant additional impacts to neighbouring residents.

**Borough Council #1**

No. The difference between 5 and 6 metres can be significant to appearance. In combination with a potentially very significant increase in site coverage, these effects could be significantly magnified. There is no detail in the consultation to justify an increase to 6 metres, or to suggest why 5 metres was not already sufficient.

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

Yes	
No	
Don't know	

Please specify:

Unaware of any evidence

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

Agree	
Disagree	
Don't know	

Please give your reasons:

No response to this particular question

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

Yes	
No	

Please specify:

No response to this particular question

**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:

**Borough Council #1**

Yes. The proposed amendments could result in a significant intensification of activities on sites, which could well impact upon the local communities within which they are situated, as well as businesses through impacts such as increased traffic generation

**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	X
Don't know	

If so, please give your reasons:

**Borough Council #1**

Does not consider that the impacts on those who share a protected characteristic will differ from the impacts on other groups.

**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	X
Don't know	

If so, please give your reasons:

**Borough Council #1**

Does not consider that the impacts on those who share a protected characteristic will differ from the impacts on other groups.

**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	X
Don't know	

If so, please give your reasons:

**Borough Council #1**

Does not consider that the impacts on those who share a protected characteristic will differ from the impacts on other groups.

**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:

**County Council**

Yes, provided consideration is given to the Development Management team and internal consultee teams e.g. Environment, Transport Development Control, Lead Local Flood Authority and Public Health being resourced to engage with the development side of the council through pre-application discussions and at the application stage so that any issues arising can be readily resolved and applications determined expeditiously.

**Borough Council #1**

As minor developments are subject to an 8-week timescale, there is little purpose in extending the proposals to cover minor development. However, the proposals could result in the curious situation of major developments being subject to a shorter consultation period than minor developments, which would be counterintuitive and quite difficult for the public to understand.

**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:

**County Council**

Yes. The only applications this would apply to would be major school developments, the council is not the planning authority for hospitals or prisons.

**Borough Council #1**

Does not agree that the modified process should apply to these uses. They have also not identified any additional uses that the process should apply to.

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

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

Please give your reasons:

**County Council**

Yes, provided as set out in answer to question 11 that the relevant teams within the council and statutory consultees are sufficiently resourced to engage in pre-application discussions and for the statutory planning process.

Many planning applications for public service infrastructure projects which are principally funded by government are determined at a county council tier through reg 3, it would not be true to say that the local planning authorities can prioritise these decisions over other applications to accelerate determination to 10 weeks.

**Borough Council #1**

No. The Council works extensively, alongside its partners, as both a provider of public service infrastructure and as a local planning authority to ensure that such infrastructure is delivered at a high quality in a timely manner. In our view, the existing system allows for us to adequately support the delivery of that infrastructure in a timely manner. Reducing the time for decisions to be made is likely to impact on the quality of those decisions, particularly if the only hard measure to enable this three-week reduction is a one-week reduction in the consultation period.

Part of the justification for the proposal hinges on pre-application discussions. As a Council, we have an established pre-application process, and we strongly encourage applicants to make use of it. However, inevitably, some applicants, including those proposing public service infrastructure do not do so. We are grateful that the government is proposing to underline the importance of engaging with the local planning authority at pre-application stage, and will await further detail on this, but are sceptical about what difference that will make. Even where the pre-application route is used, there are a number of matters that are still to be resolved within the application process.

The other assumption behind the proposed change is that local planning authorities will simply prioritise public service infrastructure, and deal with this through effective case management. However, elsewhere, in the Planning White Paper, the government has consulted on proposals that would result in an automatic grant of permission if an application goes over statutory timescales. Local authorities are under pressure to issue all decisions in a timely manner, against a background of significant resource constraints, and many are already operating at or beyond capacity. The best way to prioritise such developments would be to adequately resource planning authorities to support them.

As the proposal relates to major developments, these will usually be determined by Planning Applications Committee. It will often be extremely difficult to get an application to a committee within a ten-week timescale. It is rarely an option to simply bring forward a committee in response to a single application, as suggested in the paragraph 58 of the consultation, as councillors will have many other commitments as part of their role.

Ultimately, a three-week saving in application time is unlikely to be a benefit that outweighs the consequences of a rushed decision that has not been able to take account of the full range of considerations.

**Borough Council #2**

The faster decision process of 10 weeks for substantive public service developments (current 13 weeks) will place pressure on LPA resources and could see other current priorities delayed e.g. housing delivery.

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

Yes	
No	X

Please give your reasons:

**Borough Council #1**

No. The existing system gives a reasonable period of consultation of 21 days. 14 days would simply not be sufficient to allow adequate opportunity for the public to have their say on a proposed development. Whilst the public often supports the principle of provision of additional public service infrastructure, in practice the reality of such developments can be just as controversial as for any other type of development. We have had recent experience of proposals for a new school for instance generating over 1,000 objections, and it is worth noting that simply collating such a number of responses would be almost impossible within an overall 10-week timescale. Reducing the timescale for consultation will serve only to reduce the community input into the proposals and lead to distrust. For many people, 14 days spans a period when they may well be on holiday and not be aware of their opportunity to have their say. For consultee bodies, it is already proving difficult to get responses within three weeks, so a reduction to two weeks will simply mean that responses are not received at all or are in a more standardised format that is of limited value. The proposed change relies on an assumption that there has been substantial engagement taking place during the pre-application process, but this is not always the case.

**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:

**County Council**

No, but it is doubted that the Planning Inspectorate/PCU would be sufficiently resourced to do anything productive with this information. It would also be of limited purpose for Reg 3 applications i.e., applications submitted by the County Council to itself as Local Planning Authority, as there is no right of appeal. It may assist with call-in situations i.e. when the council first needs to refer an application to the Secretary of State prior to its determination in accordance with the requirements of The Town and Country Planning (Consultation) (England) Direction 2009.

**Borough Council #1**

It is agreed that notifying the Secretary of State when a valid application is received may help with monitoring and should not add a particularly significant burden to the process. However, it is not clear what the purpose would be of notifying the Secretary of State of when an authority anticipates making a decision would be. This would still potentially be subject to change and would be much

more difficult to cover by standard procedures, as it would be in the hands of a case officer to monitor. As such, it would appear to add an unnecessary burden.

**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:

**County Council**

Yes, although it is only schools for which the County Council would be the determining planning authority which are already covered in paragraph 94.

Working with other public service infrastructure providers to resolve key planning issues is good planning practice. However, local authorities are dependent on engagement from those providers and this responsibility should be shared.

**Borough Council**

Yes. Working with other public service infrastructure providers such as hospital trusts, further education colleges and prisons to resolve issues wherever possible is simply good planning practice, although local authorities are of course dependent on engagement from those providers.

**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:

No response provided to this particular question

**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:

No response provided to this particular question

**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	X

If so, please give your reasons:

**Borough Council #1**

Does not consider that the impacts on those who share a protected characteristic will differ from the impacts on other groups.

## 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:

**Borough Council #1**

Yes. The Council agrees that where rights are no longer required due to use class changes and would be superseded by the new right, that they should be removed. We also agree that the review should not seek to change permitted development rights that are unaffected by changes to use classes.

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

Yes	
No	

Please specify:

No response provided to this particular question

**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:

**Borough Council #1**

Yes. There is no reason to treat changes of use away from betting shops and pay day lenders to commercial uses any differently from changes within the commercial use class.

**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:

**Borough Council #1**

As the broad approach seems to be to review the category 4 rights, without any indication of whether these rights will be broadened, restricted, or carried forward in a similar form, it is not possible to fully answer this question. More detail on the changes would be required.

The consultation raises the issue of conservation areas in the case where permitted development rights that differ on whether they apply in conservation areas are to be merged. In these cases, we would encourage the government to err on the side of caution. Conservation areas by their nature have great historic or architectural significance, and the reasons for that significance will differ from case to case. In applying blanket permitted development rights to all conservation areas, serious harm could be caused to some areas, and this would not be a worthwhile price to pay for the limited benefits that would result. In these cases, full consideration through a planning application would be a reasonable safeguard.

The final bullet point in paragraph 78 indicates that no changes are proposed to permitted development rights for demolition and rebuild. Leaving aside the Council's wider view that these permitted development rights are inappropriate, it is worth noting that class ZA refers specifically to the B1 use class and therefore would require amendment. We do not believe that demolition and rebuild should be extended to every use within use class E, as this could result in the loss of essential services and facilities as set out in the answers to other questions.

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

Yes	X
No	

Please specify:

**Borough Council #1**

Given the complexity of the task of reviewing, consolidating, and updating permitted development rights, it is important that draft proposals are subject to further consultation, particularly since there

are still key decisions to be made around matters such as size limits and application in conservation areas.

## **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.