



# Member's Briefing: Planning Reform – Supporting the high street and increasing the delivery of new homes consultation (January 2019)

---

## Introduction

This [consultation](#) was launched by the Government on 29 October 2018 and covers separate proposals on:

- Part 1: Permitted development rights and use classes
- Part 2: Disposal of local authority land
- Part 3: Canal & River Trust: Draft listed building consent order
- Part 4: New town development corporations: Draft compulsory purchase guidance

Views are sought for each specific part of the consultation paper, however most proposals relevant to Civic Voice members are contained with Part 1 and are summarised below. Civic Voice responded to the consultation on 14 January 2019.

Civic Voice has taken the decision to only respond to the critical proposals of interest to the civic movement. The decision to respond to this consultation was agreed by the Civic Voice board on 14<sup>th</sup> December and delegated to officers to respond.

Please note that the following briefing does not follow the exact order of the consultation or replicate word-for-word the Government's consultation questions but summarises and provides commentary on what Civic Voice considers are the key proposals that are of interest to the civic movement and may have a nationwide impact.

## Part 1: Permitted development rights and use classes

This consultation proposes to expand existing permitted developments to support the high street and housing delivery.

Permitted development (PD) rights enable property owners to make changes/carry out development without the need to apply for planning permission. In some PD cases, however, an applicant must seek prior approval for specified elements of the development via a cheaper and more streamlined route called the **Prior Approval** process.

This process, essentially, means that the principle of the extension, or change of use of the property is granted, subject to certain conditions and limits. The local authority can only consider detailed 'specific matters' through the Prior Approval process, and these matters vary between the types of development or change of use proposed.

For example, under the current PD rights, a single storey rear extension of up to 8m in length to a detached dwelling is permitted if no objections are received from neighbours. Only if an objection is received, is the local authority permitted to consider the impact of the development on the amenity of adjoining properties and require amendments or refuse the Prior Approval. In this instance, matters such as the design of the extension and its impact on the street scene cannot be considered by the local authority.

The **Use Classes Order** categorises different types of building uses and is a deregulatory tool which provides for movement within similar uses without the need for planning permission. This consultation proposes various changes to the current [Use Classes Order](#) to encourage flexibility between certain high street uses and create additional homes.

Key proposals in the consultation:

- 1. Introducing a new PD right to extend certain existing buildings upwards to provide additional, new homes.** The consultation proposes to allow additional storeys to be built above certain commercial or residential buildings, up to a maximum of 5 storeys. Two options are proposed: a) to extend up to the roofline of the highest building in a terrace; or b) building up to the prevailing roof height in the locality. This proposed new PD right would not apply in Conservation Areas or to listed buildings. The consultation also asks whether local design codes could improve the design quality and acceptability of upward extensions.

*Commentary: It is not clear from the consultation document whether the upward extensions proposal to create additional new homes would only apply to 'certain existing buildings in high streets and town centres' as stated in Para 1.14 of the consultation or to certain buildings in commercial or residential use anywhere, excluding properties on protected land such as Conservation Areas, as alluded to in Paras. 1.15 and 1.22. We would welcome clarification on this matter.*

*Civic Voice supports making the most efficient use land and understands the rationale for exploring the possibility of using the airspace above properties to provide new homes. However, given the high visibility and prominence of upward extensions and potential impact on the street scene, local character and amenity, very careful consideration of such proposals must be required. We, therefore, object to Option a) to allow premises to extend to the roofline of the highest building in a terrace unless full consideration of the 'design, siting and external appearance of the upward extension and its impact on amenity and character of the area' can be fully considered by the local authority and is included in the final legislation, as highlighted in Paras. 1.25-1.26 of the consultation. This is essential to ensure a proposed upward extension under PD amounts to 'good design, adds to the overall quality of the area... is visually attractive as a result of good architecture, responds to the local character and history of the area and maintains a strong sense of place', as required by the NPPF and as outlined in Paras. 1.25 - 1.26.*

*Given the potential impacts to be considered for upward extensions, this may place heavy burdens on local planning authorities and therefore, consideration through the standard planning application route may be more appropriate. An alternative approach could be to bring forward such proposals through an up-to-date local plan policy.*

*We strongly object to Option b) building up to the prevailing roof height in the locality, which could be difficult to define, open to debate and set undesirable precedents. Any such proposals should, therefore, require full consideration through the standard planning application process.*

*We support the exclusion of Conservation Areas and listed buildings from the new right.*

*We strongly support the use of design codes to improve the design and external appearance of upward extensions under the proposed new PD right and ensure the visual integrity of the street scene.*

**2. Expanding current PD rights to allow existing premises in typical high street uses e.g. shops (A1), cafes (A3) etc. to change to a wider range of uses** including leisure and community uses e.g. gyms, libraries, health care; office use; and residential.

*Commentary: Civic Voice supports the principle of encouraging a greater mix of uses on the high street and in centres. Greater flexibility between some of the use classes (between A1-A3, B1, and certain D1, D2 uses) would mean that traditional high street uses could change to community and business uses, potentially encouraging a greater diversity in employment on the high street and variety in the street scene. It would also further support the creation of new dwellings on high streets and in centres, encouraging greater footfall.*

*However, we consider there needs to be a mechanism through Prior Approval to avoid adverse impacts from a proliferation of certain uses within close proximity. For example, the cumulative impact of hot food takeaways can have a negative impact on healthy lifestyles, encourage anti-social behaviour, noise and disturbance and reduce 'active' frontages on the street during the daytime. Similarly, the cumulative impact of several changes of use to offices or residential without safeguards, could fundamentally change the character of an area over time. Whilst this may be acceptable depending on local circumstances, Civic Voice consider this should be part of a planned approach by the local authority rather than as a result of deregulation. 'Healthy' high streets have a mix of uses; therefore, any expansion of PD rights to encourage flexibility between uses should facilitate, not hinder this.*

**3. Traditional high street uses can already change to residential use without planning permission, the consultation proposes expanding this to cover hot food takeaways too.** If the proposed amendment followed the existing legislation (under Part M), this PD right would not apply in Conservation Areas. or to listed buildings.

*Commentary: Civic Voice supports this proposal. However, under the Prior Approval process, we consider local authorities should be able to consider and ensure that a good quality living environment is achieved by the development. Matters for consideration should also include the location of essential supporting facilities for the dwelling e.g. bin storage, access to the dwelling, parking etc. which are all matters that can impact future occupiers and the wider street scene. It is concerning that the existing Prior Approval process does not consider the quality of the resultant living accommodation and we consider this should be amended to ensure that PD rights do not undermine the Government's own objective to provide high quality new homes.*

**4. Extending the temporary time period for certain high street uses to change to shops (A1), financial & professional services (A2), restaurants/cafes (A3), offices (B1) or certain community uses** e.g. libraries, exhibition halls, museums, clinics, health centres from 2 to 3 years to support business start-ups.

*Commentary: We support the proposal to expand the existing temporary PD right to change certain uses to high street uses e.g. shops, financial and professional services, restaurants/cafes or offices for a period of 3 not 2 years and to expand the right to include change of use to certain community uses e.g. libraries, exhibition halls, museums, clinics or health centres. Temporary change of use could also apply to and help facilitate pop-up art/craft fairs and displays in vacant units, and 'civic uses' such as meeting rooms and hot-desking office space (offered at low cost to community groups and start-up businesses and reflecting new ways of working).*

**5. Simplifying the current Use Classes Order through introducing either a) a broader definition of the A1 use class to capture potential future retail models or b) merging the A1 (shops), A2 (financial and professional services) & A3 (restaurants/cafes) use classes into one use class.**

*Commentary: Given the current structural changes within the retail sector which are adversely affecting high streets and town centres across England, it is right that the Government is exploring all options to re-invigorate our town and city centres. An update of the Use Classes Order is long overdue, and a such a review could include simplifying and rationalising the Use Classes Order to ensure that it is fit for purpose for the 21<sup>st</sup> Century. However, fresh thinking is required. As highlighted in [The High Street Report](#), consideration should be given to reframing our view of the 'high street' as just a shopping environment and more towards creating multi-functional vibrant places to meet, work, live, dwell, spend our leisure time, attend appointments etc... and shop.*

*Civic Voice supports the principle of reviewing and simplifying the current Use Classes Order so that it supports 21<sup>st</sup> century high streets and centres. This may mean that we need refine the types of uses that are, in principle, acceptable with high streets and centres, which is alluded to within the consultation e.g. some assembly and leisure uses (D2), and non-residential institutions (D1) (i.e. essential community facilities) as well as the traditional high street uses (A1-A3). Expansion of PD rights will essentially reduce public engagement (as planning permission will not be required for certain development/change of use). Civic Voice has taken a pragmatic view in responding to this consultation. However, the devil will be in the detail of the legislation and we would not support changes that could lead to a deregulated 'free for all' within high streets and centres.*

*For clarity and ease of access for stakeholders and in the interests of transparency and openness with the planning system, we strongly urge the Government to have one central piece of legislation which incorporates any amendments to the current [General Permitted Development Order](#) as there is no one consolidated place to view and understand the current legislation.*

*Regarding the specific options proposed in the consultation, it is difficult to forecast how the retail market will develop in years to come and it is possible that new models may evolve, or traditional shopping habits may return (for example preferences for 'big box' out-of-town shopping seem to have diminished in recent years). As such, Civic Voice does not support option a).*

*Out of the two options proposed, option b) may be more appropriate but Civic Voice objects to how the proposal is currently drafted. Civic Voice does not support movement between the simplified use class being taken out of the planning system. The consultation states that it would, 'no longer [be] development and not a matter for the planning system to consider'. This is concerning as there are potential unintended consequences of this, for example what is stop a proliferation of any one type of use, contrary to providing a healthy mix of uses on the high street? Flexibility between A1-A3 uses should be encouraged but safeguards need to be in place for example, through the Prior Approval process.*

**6. Removing the existing PD right which allows the installation of public telephone boxes, shelters or hoods and the adverts displayed on them, which would enable more local consideration of their impact on local amenity and the street scene.**

*Commentary: Civic Voice supports the proposal. We are aware of many examples across the country where telephone kiosks (and associated advertising) are poorly designed, add to street clutter and are detrimental to the public realm within our towns and cities.*

**7. Make permanent 2 x existing time-limited PD rights, which allow change of use from storage/distribution to residential use, and for larger single storey rear extensions (up to 6m or 8m in length) to houses. These PD rights do not apply in Conservation Areas.**

*Commentary: Civic Voice strongly objects to this proposal. We made strong representations at the time when the larger household extensions were first introduced and we have been made aware of too many poorly designed extensions, which adversely affect the wider street scene, and it is highly likely that they would not have been granted planning permission by the local authority if they had been subject to a full planning application. In view of this evidence, Civic Voice cannot support making this PD right permanent.*

**8. Explore the feasibility of a new right to allow for the demolition of existing commercial buildings and their redevelopment as residential**

*Commentary: Civic Voice objects to this proposal. This should fall within the normal planning application process given the potential number and variety of matters that should be considered e.g. compliance with Local Plan policies, providing a sufficient supply of employment land, impact on neighbouring business operations, amenity, access, design etc... Such schemes should also always be subject to wider public scrutiny and comment. It is also unclear from the consultation as to how this proposal relates to existing measures for Permission in Principle and Brownfield Land Registers.*

***Disclaimer***

***This document is for informational purposes only and does not constitute legal advice. It is recommended that specific professional advice is sought before acting on any of the information given.***