



# Government consultation: Supporting housing delivery and public service infrastructure (through permitted development) (December 2020)

## Members' briefing

### Introduction

On 3 December 2020, the Ministry of Housing, Communities and Local Government (MHCLG) published proposals to encourage more housing delivery through a new permitted development right and to support public service infrastructure development e.g. schools, hospitals, prisons. The changes apply in England only.

The consultation runs until **28 January 2021** (8 week public consultation). View the consultation here: <https://www.gov.uk/government/consultations/supporting-housing-delivery-and-public-service-infrastructure/supporting-housing-delivery-and-public-service-infrastructure>

A summary of the proposals is provided below. Civic Voice is concerned by some of the proposals and will be preparing a response to the consultation, in consultation with members. We also encourage civic societies to submit your own response to the consultation drawing on your local experiences.

Please get in touch with us at [info@civicvoice.org.uk](mailto:info@civicvoice.org.uk) with any thoughts or comments you have.

### What's proposed?

The consultation is split into four parts:

- Part 1 introduces a new permitted development right (PDR) which would allow the change of use from any use, or mix of uses, within Class E (Commercial, Business and Service uses) to Residential use (C3) without the need for a planning application, from 1 August 2021.
- Part 2a) proposes to widen the scope of minor development allowed under existing PDR for schools, colleges, universities, and hospitals, and proposes to also include prisons.
- Part 2b) proposes a faster planning application route, and shorter public consultation periods, for major development of schools, colleges, hospitals and prisons (universities are not included in this).
- Part 3 consults on consolidating and simplifying the existing PDR legislation to address consistency issues between former and current use classes.

Civic Voice's summary focuses primarily on Part 1 of the consultation, with some reflections on the remainder of the consultation. However, we welcome hearing from local community groups on your local experiences of PDR and views on the whole consultation.

### 1. Part 1: Permitted development Class E to residential (C3)

Use Class E (Commercial, Business and Service) came into effect on 1st September 2020. It includes the following uses and puts them all into the new use class E: shops; financial and professional services e.g. banks, estate agencies; restaurants and cafes; light industry e.g. offices,

research & development; some non-residential institutions e.g. health and medical services, creches, day nurseries; and some indoor sport facilities e.g. gyms.

There are current temporary PDRs for shops, financial and professional services and offices to change to residential use which apply until 31 July 2021. The consultation proposes making them permanent and going much wider, widening the rights to apply to all uses within the new Class E.

The Government believes that this *'new right would help support economic recovery, housing delivery and the regeneration of our high streets and town centres'* (Para. 5). Although it is important to note that Class E uses apply everywhere, they are not just restricted to high streets or town/city centres.

The proposal goes further than previous changes to PDRs as it would apply to properties in conservation areas. There would also be no restrictions on the size of properties that could be converted to residential use.

To address criticisms over the quality of homes provided through PDR in the past, the consultation says that all homes would be required to meet the nationally described space standards.

*Initial comment: Civic Voice is involved in the Government's High Street Task Force, so we know as much as anyone about the challenges facing the high street, but we question claims that these proposals will breathe new life into high streets and town/city centres. It may instead, simply enable change of use to more profitable uses, often residential, rather than enabling a greater range of uses to diversify and support high streets/centres. We are also extremely concerned that unlike some of the recent changes to permitted development, this consultation proposes that the new right would apply in conservation areas. The danger with deregulation is that it can often lead to unscrupulous developers/ landowners exploiting loopholes, as we have seen with previous widening of PDR, which the Government's own commissioned report concluded that permitted development rights create "worse quality residential environments". A limited list of prior approval matters may not necessarily secure a high quality residential environment or vibrant, diverse and planned centres. We cannot support this policy and will be coordinating a response for all Civic Societies to respond to this consultation.*

## **2. Part 2a) - Providing further flexibilities for public service infrastructure through permitted development rights**

Existing PDRs (Class M) allow extensions etc. to schools, colleges, universities, and hospitals but these are subject to size and height limits to protect neighbouring residential amenity etc.

This consultation proposes to expand the existing size limits and height restrictions and to allow prisons to benefit from the rights too. The new size limits would be to expand their facilities by up to 25% of the footprint of the current rather than original buildings on the site, or up to 250 square metres, whichever is the greater. The height limit is to be raised from 5m to 6m, excluding plant on the roof, except where it is within 10 metres of the boundary or curtilage.

## **3. Part 2b) - A faster planning application process for public service developments**

This part of the consultation relates to major development of schools, colleges, hospitals, prisons, affecting both existing and new sites. The new rules would be limited to *'public service*

*infrastructure projects which are principally funded by government'*, definition to be determined. It is unclear if this is widening or limiting the scope of development projects able to use the faster process.

Developments would still require a full planning application but the process will be made faster and local authorities will be expected to prioritise decisions on these key public service developments. The process will change by:

- Reducing the statutory determination period from 13 weeks to 10 weeks.
- Reducing the 21 days public consultation to 14 days.
- Prioritising such applications and any post permission consents e.g. reserved matters applications, discharge of conditions etc.
- There will be a greater emphasis on '*effective pre-application engagement between all parties*' and further guidance will be issued to clarify this.
- Introducing a requirement for the local authority to notify the Secretary of State when they receive a valid planning application for this type of development, and the expected decision date within 8 weeks of validation.

*Initial comment: An efficient and effective process is important for critical public service infrastructure development e.g. hospitals however, it is concerning that the public consultation is proposed to be reduced to 14 days for major developments (which could be up to 5 hectares in size). We welcome renewed emphasis on effective pre-app engagement, but such engagement is not just internal discussions between the applicant, statutory consultees and the local authority. For major developments it must involve the local community. We understand the Government's ambitions and expectations that 'many of these developments will have already been subject to extensive prior engagement with the local community' (Para. 63) but Civic Voice's experience is that this is not happening. We cannot support the change to the consultation period unless there are standards for effective engagement with the local community on major developments.*

#### **4. Part 3 – Consolidation and simplification of PDR legislation**

The proposal is to 'tidy up' the existing legislation to take account of the various changes to the Use Classes Order, addressing any consistency issues between former and current use classes. This will be a significant and complex piece of work, potentially updating/amending 49 individual rights and paragraphs.

The principle of reviewing and updating the Order for simplicity and clarity is a good one but the devil will be in the detail. The consultation highlights examples of where rights could be broadened, or restricted, for consistency.

The consultation states that '*Where individual rights that either do or do not apply in conservation areas or other protected land are merged we will consider the balance of safeguards to be provided, and whether that could mean that some rights would in future apply in protected land.*' (Para. 78).

*Initial comment: A key concern for Civic Voice is the potential broadening of PDR for land/properties within conservation areas. In legislation, this land generally receives exemptions from PDR and, therefore, greater protections, for valid reasons to 'preserve or enhance' the special architectural or historic interest of the conservation area. We do not support a review of the legislation leading to widening of the PDR to include land within conservation areas.*

**Table 1: Typical high street uses and potential changes to permitted development rights\***

\*Please note that this is a complex area of changing legislation. This table has been produced in the spirit of helpfulness and does not constitute professional planning or legal advice. Sources consulted include: [https://www.planningportal.co.uk/info/200130/common\\_projects/9/change\\_of\\_use/2](https://www.planningportal.co.uk/info/200130/common_projects/9/change_of_use/2) and [https://www.planningportal.co.uk/info/200130/common\\_projects/9/change\\_of\\_use](https://www.planningportal.co.uk/info/200130/common_projects/9/change_of_use) (accessed 14/1/21)

| <i>Type of use</i>             | <i>Can it change to housing under PD now?</i>        | <i>Will it be able to change to housing under proposed new PD rights?</i> |
|--------------------------------|--|---|
| Shop                           | Yes (up to 150 sq.m) (until 31 July 2021?)           | Yes   |
| Bank                           | Yes (up to 150 sq.m) (until 31 July 2021?)           | Yes   |
| Estate agency                  | Yes (up to 150 sq.m)                                 | Yes   |
| Offices                        | Yes (until 31 July 2021?)                            | Yes   |
| Restaurant                     | No   | Yes   |
| Café                           | No   | Yes   |
| Gym                            | No   | Yes   |
| Creche/day nursery             | No   | Yes   |
| Day centre                     | No   | Yes   |
| Community centre/hall          | No   | No  |
| Doctor's surgery/health centre | No   | Yes   |
| Dentist                        | No   | Yes   |
| Hairdresser's                  | Yes (up to 150 sq.m)                                 | Yes   |
| Pub                            | No   | No  |
| Hot food takeaway              | No   | No  |
| Library                        | No   | No  |
| Post office                    | Yes (up to 150 sq.m)                                 | Yes   |
| Bookmaker's                    | Yes (up to 150 sq.m)                                 | Not clear   |
| Charity shop                   | Yes (up to 150 sq.m)                                 | Yes   |
| Beauty salon                   | No   | No  |
| Travel agent                   | Yes (up to 150 sq.m)                                 | Yes   |
| Solicitor's                    | Yes (up to 150 sq.m)                                 | Yes   |
| Hotel                          | No   | No  |
| Pharmacy                       | Yes, if primarily a shop e.g. Boots (up to 150 sq.m) | Yes   |
| Launderette                    | Yes?   | Not clear   |
| Takeaway food (cold)           | Yes (up to 150 sq.m)                                 | Yes   |
| Funeral director's             | Yes (up to 150 sq.m)                                 | Yes   |
| Optician's                     | Yes, if primarily a shop? (up to 150 sq.m)           | Yes   |
| Florist                        | Yes (up to 150 sq.m)                                 | Yes   |
| Coffee shop                    | No   | Yes   |
| Off licence                    | Yes (up to 150 sq.m)                                 | Yes   |
| Cinema                         | Yes (up to 150 sq.m)                                 | No  |