

APPENDIX 1

PD rights consultation August 2023

Consultation on additional flexibilities to support housing delivery, the agricultural sector, businesses, high streets and open prisons; and a call for evidence on nature-based solutions, farm efficiency projects and diversification - [GOV.UK \(www.gov.uk\)](https://www.gov.uk) - *Closes 25th September.*

Q.1 Do you agree that prior approvals for design or external appearance in existing permitted development rights should be replaced by consideration of design codes where they are in place locally?

- a) Yes**
- b) No**
- c) Don't know**

Suggested Response:

No. While design is an important issue and the opportunity to consider guidance in any design codes as part of any prior approval process is in principle welcomed, it is questioned why design is considered different to the multitude of other important issues local planning authorities need to manage – such as affordable housing provision, protecting the retail core of town centres and high streets, and securing environmental standards.

Given permitted development rights indicate Planning Applications are generally not required, it is highly unusual that an exception is being drawn for design codes. Doing so will require additional planning judgements on the design element of a PD Scheme, which moves away from the simplification that the prior approval process is meant to provide, and represents an additional level of bureaucracy.

Q.2 Do you think that any of the proposed changes to permitted development rights in relation to design codes could impact on: a) businesses b) local planning authorities

- c) communities?**
- a) Yes**
- b) No**
- c) Don't know**

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.

Suggested Response:

No comment

Q.3 Do you agree that the permitted development right for the change of use from the Commercial, Business and Service use class (Use Class E) to residential (Class MA of Part 3), should be amended to either:

- a) Double the floorspace that can change use to 3,000 square metres**
- b) Remove the limit on the amount of floorspace that can change use**

- c) No change
- d) Don't know

Suggested Response:

No change. Existing arrangements strike an appropriate balance that ensures the impacts of larger scale change of use can properly be tested through the planning application process, whilst offering some scope for housing delivery through permitted development rights. How 'doubling the amount of floorspace' (without planning permission), still strikes this balance is unclear.

Q.4 Do you agree that the permitted development right (Class MA of Part 3) should be amended to remove the requirement that the premises must be vacant for at least three continuous months immediately prior to the date of the application for prior approval?

- a) Yes
- b) No
- c) Don't know

Suggested Response

No. 3 months is already a very low bar in terms of a vacancy test, that does not provide a significant barrier to conversion of commercial premises to residential where they could continue to be used as a viable commercial use.

Q.5 Do you think that the permitted development right (Class MA of Part 3) should apply in other excluded article 2(3) land?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

Suggested Response:

No Comment.

Q.6 Do you think the prior approval that allows for the local consideration of the impacts of the change of use of the ground floor in conservation areas on the character or sustainability of the conservation is working well in practice?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

If no, please explain why you don't think the prior approval works in practice?

Suggested Response:

No Comment.

Q.7 Do you agree that permitted development rights should support the change of use of hotels, boarding houses or guest houses (Use Class C1) to dwellinghouses?

- a) Yes
- b) No
- c) Don't know

Suggested Response:

No. Class C1 uses including hotels provide a vital role in supporting the commercial functions of town centres and the visitor economy in areas such as Westminster. Positive impacts on surrounding neighbourhoods can also be more dependent on retaining C1 and other commercial uses in certain areas.

Spend from visitors staying in such accommodation in Central London makes a major contribution to the national economy.

Insufficient supply of dedicated hotel space could lead to an increased demand for short-term let accommodation in traditional residential neighbourhoods, which if inappropriately managed, can disrupt residential amenity.

Whilst in some locations it may be acceptable to convert C1 accommodation to residential (e.g. in otherwise largely residential neighbourhoods), this is best addressed through the planning application process, and can also ensure any opportunity to secure much needed affordable housing through such proposals is not lost.

Q.8 Are there any safeguards or specific matters that should be considered if the change of use of hotels, boarding houses or guest houses (Use Class C1) to dwellinghouses was supported through permitted development rights?

- a) Yes
- b) No
- c) Don't know

If yes, please specify.

Suggested Response:

Permitted development from C1 to dwellinghouses should not be supported as set out in response to Q8 above. Should they be introduced, safeguards would be necessary to ensure:

- *It should only apply in areas where key commercial sectors are not disrupted.*
- *It should only apply in areas that are highly residential in character, not commercial (e.g. designated town centres)*
- *Any new housing is of sufficient quality in terms of design standards, space standards, and environmental performance;*
- *It does not apply at a scale that would reduce much needed affordable housing provision; i.e. should not apply to schemes capable of delivering 10 homes or more;*

Introducing such safeguards would however mean that prior approval process may become more problematic, bureaucratic, and inefficient – hence the assertion that this proposed permitted development right should not be introduced.

Q.9 Do you think that any of the proposed changes in relation to the Class MA permitted development right could impact on: a) businesses b) local planning authorities c) communities?

- a) Yes
- b) No
- c) Don't know

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.

Suggested Response:

Yes. Such changes will have a negative impact on businesses, local planning authorities, and communities.

For businesses such as retail and leisure, it can negatively impact tourism reducing visitor spend through a reduction in footfall as well as the lack of dedicated visitor accommodation located close to such destinations. Any reduction in the agglomeration or visitor accommodation could also significantly change their character and function as visitor destinations and have a knock-on effect on other commercial uses. Whilst there may be areas where retention of visitor accommodation is unnecessary, and it is suitable to become more residential in character, this is best managed through the planning application process so that it can happen in a planned and co-ordinated manner.

For local planning authorities, it will reduce their ability to secure much needed affordable housing and other planning obligations through a planning application. It will mean local planning authorities are unable to ensure any new homes created have the best possible environmental standards, limiting their ability to respond to Climate Change and environmental objectives. It will also reduce fee incomes that are necessary to facilitate a functioning planning service given prior approval applications still require resource to assess the applications but at a reduced fee.

For communities, it will reduce their ability to have a say on significant change of use proposals affecting them and their local neighbourhoods. Where existing communities are living in inappropriate accommodation (e.g., overcrowded conditions, temporary accommodation etc) due to a lack of affordable housing provision, it will also have negative impacts on their health and wellbeing as it limits the opportunities for them to find more suitable accommodation.

Q.10 Do you think that changes to Class MA will lead to the delivery of new homes that would not have been brought forward under a planning application?

- a) Yes
- b) No
- c) Don't know

If so, please give your reasons.

Suggested Response:

No Comment

Q. 11 Do you agree that the right for the change of use from hot food takeaways, betting offices, pay day loan shops and launderettes (Class M of Part 3) is amended to:

- a) Double the floorspace that can change use to 300 square metres
- b) Remove the limit on the amount of floorspace that can change use
- c) No change
- d) Don't know

Please give your reasons.

Suggested Response:

No change. Current size thresholds are justified based on striking a balance between supporting new housing and retaining commercial uses on the high street. Any expansion of this permitted development right would therefore reduce this balance and could result in the further breaking up of active frontages in designated town centres, undermining their vitality and viability, contrary to the NPPF. Rights to convert premises to Class E uses provide sufficient flexibility of use to landowners, whilst not harming the commercial function of town centres.

Q.12 Do you agree that the existing right (Class M of Part 3) is amended to no longer apply to launderettes?

- a) Yes
- b) No
- c) Don't know

Please give your reasons

Yes. Launderettes play a vital role in supporting local communities, as evidenced through other local authorities successful Article 4 Directions.

Q. 13 Do you agree that the right for the change of use from amusement arcades and centres, and casinos (Class N of Part 3) is amended to:

- a) Double the floorspace that can change use to 300 square metres
- b) Remove the limit on the amount of floorspace that can change use
- c) No change
- d) Don't know

Please give your reasons.

Suggested Response:

No change. Current size thresholds are justified based on the need for striking a balance between supporting new housing and retaining commercial uses on the high street. Any expansion of this permitted development right would therefore reduce this balance and could result in the further breaking up of active frontages in designated town centres, undermining their vitality and viability, contrary to the NPPF.

Q.14 Do you agree that the right (Class M of Part 3) should be amended to replace the existing date on which the building must have been in use as a hot food takeaway, betting office, pay day loan shop or launderette instead to a two-year rolling requirement?

- a) Yes
- b) No
- c) Don't know

Suggested Response:

No Comment.

Q.15 Do you agree that the right (Class N of Part 3) should be amended to replace the existing date on which the building must have been in use as an amusement arcade or centre, or casino instead to two-year rolling requirement?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

Suggested Response:

No Comment.

Q.16 Do you think that the permitted development right for the change of use from hot food takeaways, betting offices, pay day loan shops and launderette (Class M of Part 3) should apply in other article 2(3) land?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

Suggested Response:

No Comment.

Q.17 Do you think that the permitted development right for the change of use of amusement arcade or centre, or casino (Class N of Part 3) should apply in other excluded article 2(3) land?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

Suggested Response:

No Comment

Q.18 Do you think that any of the proposed changes in relation to the Class M and N permitted development rights could impact on: a) businesses b) local planning authorities c) communities?

- a) Yes
- b) No
- c) Don't know

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.

Suggested Response:

Yes. Such changes will have a negative impact on businesses, local planning authorities, and communities.

For existing businesses in town centres, the resulting breaking up of active frontages could result in less business due to the detrimental impact it will have on town centre vitality and viability and reduced footfall, contrary to the government's own objectives for town centres as set out in the NPPF.

For local planning authorities, it will reduce their ability to secure much needed affordable housing and other planning obligations that they normally would through a planning application. It will also mean local planning authorities are unable to ensure any new homes created have the best possible mitigation, supporting infrastructure environmental standards etc, limiting their ability to response to environmental objectives. It will also reduce fee incomes that are necessary to facilitate a functioning planning service.

For communities, it will reduce their ability to have a say on change of use proposals within town centres that provide for their shopping and servicing needs.

Q.19 Do you think that changes to Class M and N will lead to the delivery of new homes that would not have been brought forward under a planning application?

- a) Yes
- b) No
- c) Don't know

If so, please give your reasons.

Suggested Response:

No Comment.

Q.20 Do you agree that the right (Class G of Part 3) is expanded to allow for mixed use residential above other existing uses?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

If yes, please say which uses the right might apply to and give your reasons.

Suggested Response:

No Comment

Q.21 Do you agree that the number of flats that may be delivered under the right (Class G of Part 3) is doubled from two to four?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

Suggested Response:

No Comment.

Q.22 Do you agree that the permitted development right (Class H of Part 3) is amended to align with any changes made to the uses to which Class G of Part 3 applies?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

Suggested Response:

No Comment.

Q.23 Do you think that any of the proposed changes in relation to the Class G and H permitted development rights could impact on: a) businesses b) local planning authorities c) communities?

- a) Yes
- b) No
- c) Don't know

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.

Suggested Response:

Yes. For local planning authorities, it will reduce fee incomes that are necessary to facilitate a functioning planning service despite the burden of prior approval applications still needing to be resourced. It will also mean the local planning authorities are unable to ensure any new homes have the best possible mitigation and environmental standards, limiting their ability to respond to environmental objectives.

Q.24 Do you think that changes to Class G will lead to the delivery of new homes that would not have been brought forward under a planning application?

- a) Yes
- b) No
- c) Don't know

If so, please give your reasons.

Suggested Response:

No Comment.

Q.57 Do you agree that the maximum floorspace limit for the extension or alteration to a Commercial, Business and Service establishment on non-protected land is increased to either 200 square metres or a 100% increase over the original building, whichever is lesser?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

Suggested Response:

No. The council supports the removal of barriers to the continued commercial success of existing businesses and acknowledges that opportunities for further extensions of existing premises in some instances provide such benefits. However, such benefits need to be balanced against impact on local townscape and character, amenity, and operational requirements of adjacent premises. This is all best determined through the planning application process. The inability to give full consideration to these matters could have unforeseen consequences resulting in making areas less attractive and therefore being detrimental to the health of wider key commercial areas.

Q.58 Do you agree that the maximum floorspace of a new industrial and/or warehousing building on non-protected land permitted under the Part 7 Class H permitted development right be amended to 400 square metres?

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

Suggested Response:

No Comment.

Q.59 Do you agree that the maximum floorspace of a new industrial and/or warehousing extension on non-protected land be increased to either 1,500 square metres or a 75% increase over the original building, whichever is lesser.

- a) Yes
- b) No
- c) Don't know

Please give your reasons.

Suggested Response:

No Comment.

Q.60 Do you think that any of the proposed changes in relation to the Part 7 permitted development rights could impact on: a) businesses b) local planning authorities c) communities?

- a) Yes
- b) No
- c) Don't know

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.

Suggested Response:

Yes. In a plan-led system, ad hoc expansion of permitted development rights has a negative impact on local planning authorities by reducing their ability to effectively manage development, reducing fee income (since fees for prior approvals are much less than planning applications, despite often still involving significant levels of assessment to determine), and communities, by reducing their opportunity to have a say in developments that happen around them.

Q.61 Do you agree that the permitted development right for the temporary use of land should be amended so that markets can operate either:

- a) 28 days per calendar year (in line with other uses permitted under the right)
- b) A different number of days per calendar year
- c) No change
- d) Don't know

Please give your reasons. If you have chosen a different number of days per calendar year, please specify what number of days the right should provide for?

Suggested Response:

No change. Whilst the benefits of allowing markets for an extended period of time are understood in terms of supporting small businesses, it needs to be recognised that such uses can have negative impacts on residential amenity where they occur in mixed use neighbourhoods. Such impacts are best considered through the determination of a planning application as happens currently.

Q.62 Do you think that any of the proposed changes in relation to the Part 4 permitted development rights could impact on: a) businesses b) local planning authorities c) communities?

- a) Yes
- b) No
- c) Don't know

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.

Suggested Response:

Yes. Every expansion of permitted development rights has a negative impact on local planning authorities by reducing their ability to manage key infrastructure requirements, development, and fee income (since fees for prior approvals are much less than planning applications, despite often still involving significant levels of assessment to determine), and communities, by reducing their opportunity to have a say in developments that happen around them.

Q.67 What guidance, policy, or legislative changes could help to provide a more supportive framework for planning authorities to determine planning applications within?

Suggested Response:

Secondary legislation for the biodiversity net gain requirement, slated for November 2023, would help provide supportive framework for processing planning applications. Biodiversity Net Gain Plans will need to be submitted with new applications. There is currently no guidance for offsite allocations, specifically a registry of offsite allocations for developers. BNG will need to be secure for a minimum of 30 years. Will this be done via Section 106 commitments or conservation covenants?

It would be useful to have further guidance (and legislation) providing more detail on the approach to dealing with the provision of off-site BNG requirements. Particularly as relates to the need to secure a 10% increase on offsite locations, (where it has not been possible to provide the required level of mitigation onsite).

Q.71 Would these issues be resolved by amending planning practice guidance or permitted development rights, or any other solutions?

Suggested Response:

No Comment

Q.74 Do you foresee any unintended negative consequences that may result from more nature-based solutions coming forward (e.g., impacts to other species, flood risk, wildfire risk, risk to public safety, releasing contaminants from contaminated land or hydrology etc.)? How could these be avoided?

Suggested Response:

The negative consequences of nature-based solutions are greatly outweighed by the benefits; social and environmental.

However, unintended negative consequences to nature-based solutions, such as Sustainable Drainage Systems (SuDS) and requirements for new developments to have more biodiversity, can be the cost of upkeep and maintenance. More biodiversity, i.e. more habitats for different species, increased vegetation, more biodiversity will need dedicated resources to manage and this has to be budgeted. Neglecting ongoing maintenance and monitoring can lead to the rapid degradation of nature-based solutions over time.

As well as new nature-based solutions such as new habitats and wetlands in urban areas can attract lead to an increase in pests, if not properly managed.

For the above reasons, it could be helpful to provide further PPG guidance to inform and establish clear plans for maintenance and monitoring to mitigate the negative consequences outlined above.