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Consultation outcome

Supporting housing delivery and public service infrastructure: government response

Updated 31 March 2021

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Foreword

1. The government is committed to reshaping the planning system to make it accessible, efficient, and more predictable. Whilst the Planning for the future white paper (<https://www.gov.uk/government/consultations/planning-for-the-future>) sets out our longer-term ambitions, the government has brought forward and continues to bring forward steps ahead of this which provide greater certainty to the planning system so that it can effectively contribute to the immediate challenges facing the country. These include supporting the economic future of our high streets and town centres, supporting jobs, and the faster delivery of schools, hospitals, and other key infrastructure projects.

2. We published a consultation on 3 December 2020 which ran for a period for 8 weeks, ending 28 January 2021. The consultation sought views on separate proposals on:

- Part 1: 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
- Part 2: Supporting public service infrastructure through the planning system
- Part 3: Consolidation and simplification of existing permitted development rights

3. We are grateful for the quality and breadth of the responses received to the consultation. They have been carefully considered and our more detailed responses to the individual proposals are set out below.

Overview

Summary of responses

4. There were 879 responses to the Supporting housing delivery and public service infrastructure consultation. Not all respondents addressed every part or answered every question. We received responses from a wide range of interested parties from across the public and private sectors, as well as from the general public.

5. The table below provides a breakdown of responses to the consultation survey by type of respondent.

Type of organisation	Number of responses
Developer	65
Planning consultant	35
Construction company or builder	2
Local authority	189
Statutory consultees	18
Professional organisations	38
Lawyer	3

Type of organisation	Number of responses
Charity or voluntary	75
Town council	28
Parish council	22
Community groups, including residential associations	79
Private individuals	235
Other	90

6. We have carefully reviewed and analysed the responses. Where the government has decided not to make further changes to the consultation proposals, the reasons are explained. In summary the government intends to proceed as follows:

Policy: 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 (Part 1)

We will introduce a new national permitted development right to create new homes through the change of use from Commercial Business and Service uses. The right will:

- have effect from 1 August 2021
- be subject to a size limit of 1,500 sq m of floorspace changing use
- apply to buildings that have been in Commercial, Business and Service uses for two years, including time in former uses now within that class
- apply to buildings that have been vacant for at least three continuous months
- apply in conservation areas, but not in other article 2 (3) land such as National Parks and Areas of Outstanding Natural Beauty
- be subject to prior approval by the local planning authority on specific planning matters
- attract a fee of £100 per dwellinghouse

Policy: Supporting public service infrastructure through the planning system (Part 2)

We will amend the permitted development right for public service infrastructure to:

- allow for development of up to 25% of the existing buildings, or 250 square metres whichever is greater
- extend the height limit for new buildings from 5 metres to 6 metres, and for the first time allow for development at existing prisons under this right
- make university extensions subject to prior approval by the local planning authority on specific planning matters

We will introduce a faster application process for new major public service infrastructure (aiming to implement from 1 August 2021) by:

- reducing the statutory determination period for these developments from 13 weeks to 10 weeks

- shortening the statutory consultation period for these developments to 18 calendar days (from the current 21 calendar days)
- requiring that local planning authorities notify the Secretary of State when they anticipate making a decision
- making clear that the policy in paragraph 94 of the National Planning Policy Framework about the importance of pre-application engagement is extended to these types of development

Policy: Consolidation and simplification of existing permitted development rights (Part 3)

We intend to consult further on the detail of proposed consequential changes to individual permitted development rights.

1. 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

7. Part 1 of the consultation document sought views on the scope of a proposed new national permitted development right for the change of use from the Commercial Business and Service use class to residential. This broad use class, introduced on 1 September 2020, encompasses a wider range of uses commonly found on the high street, although in practice it applies everywhere in all cases. The new permitted development right will enable any such premises that falls within scope to change use to residential, subject to prior approval by the local planning authority.

8. This part of the consultation attracted a high degree of interest and comment, with Question 5 receiving the highest total within the consultation at 790 responses. While the consultation did not explicitly seek views on whether to introduce the right or not, comments were received on that matter, nonetheless. These included comment on the impact the new right might have on high streets and the wider economic recovery as businesses started to recover from the COVID-19 pandemic.

Size of the buildings to which the right might apply

9. Views were sought on the proposal to have no size limit on the buildings that can benefit from the permitted development right.

Question 1: 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)?

10. There were 711 responses to the question, with strong opposition to the proposal. Less than a third were supportive of there being no size limit to the right.

11. Views were expressed as to the impact the measure might have on the viability of the high street. For instance, if it encouraged large numbers of residents to move into the area, this would place additional demands on local services, schools, traffic and parking. It was also suggested that this right could support a trend towards 'out of town' shopping while town centres became more residential. Views were expressed about the economic impact that the loss of larger commercial units could have on an area. It was also suggested that the lack of size limit could have far reaching and unintended consequences for local areas and could change the character of those areas. There were some suggestions that there should be a size limit, including that it applies only to 'smaller shops'.

12. Other respondents felt that the right allowed for the more effective use of buildings, addressing the decline in retail, and changing ways of working, and that a size limit would inhibit such development. There was a view that the change of use of vacant buildings should be supported. Some stated that the policy would result in the loss of neighbourhood parades of shops and local facilities, with a threat to “20 Minute Neighbourhoods” – that is, places where residents have easy, convenient access to many of the places and services they use daily. Views were also expressed as to the potential loss of health services, nurseries and day centres and what impact this might have.

Where the right might apply

13. Views were sought as to which areas the right should not apply to, including conservation areas which fall within existing and previous rights for the change of use to residential.

Question 2.1: 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?

14. There were 690 responses to this question, with strong opposition to the right applying in protected areas whose characteristics were nationally recognised. Those who supported their exclusion felt that change of use in such areas should be considered through a full planning application so as to enable closer scrutiny and protect their special status, noting that their character often hinged on a delicate balance of land uses.

15. Some, however, felt that the right should apply in these areas, noting that homes were needed in all locations, and that if the external appearance of a building was not being altered significantly then the local character of the area would be preserved.

Question 2.2: Do you agree that the right should apply in conservation areas?

16. There were 718 responses to this question, with around a third agreeing that the right should apply in conservation areas. Local planning authorities, voluntary and community groups were among those who did not support the right applying in such areas. The views of those opposed to the right applying in conservation areas centred on the impact on the character and appearance of the area, including on sites of special architectural or historic interest. It was felt that a planning application should be required for the change of use in conservation areas to enable local consideration of the impacts and to maintain the character of the area and the mix of uses.

17. Those that felt that the right should apply in conservation areas noted that many high streets or town centres are designated conservation areas and that these should therefore benefit from the flexibility the proposed right would offer. It was suggested that such areas were often designated as a result of heritage and visual considerations and that as the change of use would not affect the appearance of the building there would be minimal adverse impacts. Some noted that such areas were generally suitable for housing and therefore the right would support these areas.

Question 2.3: 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?

18. There were 683 responses to the question.

19. The majority of respondents did not support the permitted development right applying in conservation areas but around a third accepted that if introduced it should allow for consideration of the impact of the loss of the ground floor use to residential in the conservation area. It was suggested that such a prior approval should apply in all cases, not just in conservation areas. It was recognised that this could help mitigate the impacts caused by the loss of active frontages, protect the viability of the high street and the wellbeing of potential residents. This was particularly the case in conservation areas where the historic context was also important.

20. Those that did not feel the prior approval was needed in conservation areas believed that unless residential use was allowed across the whole building then less housing would be delivered and that the resulting empty frontages would be counterproductive. The ability to convert the ground floor of retail for residential was seen as often being the determining factor for the viability of schemes.

Matters for local consideration through prior approval

21. Views were sought on what matters should be considered in a prior approval in order to ensure safeguards in relation to, for instance, flood risk, contamination and noise.

Question 3.1: 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?

22. There were 698 responses, and while more than half of respondents agreed with the prior approvals set out in the consultation document, many felt that those listed should be seen as a minimum, offering suggestions of additional prior approvals to be included. The majority of developers/builders agreed with the proposed prior approvals. There was a suggestion that there should be no prior approvals. However, many considered that if the government were to go ahead with the right then the prior approvals suggested should be included alongside others. In particular there were suggestions that that the right should allow for local consideration of the loss of such uses on the sustainability and vitality of the high street, and that time should be allowed for high streets to recover from the COVID-19 pandemic. Some of those who disagreed felt that the right should not be implemented at all, and that a full planning application should be required.

23. Some noted that more prior approvals could impact on delivery and give more reasons for refusal. There was also recognition that prior approvals can lead to better quality homes in suitable locations. Views were expressed about the lack of provision for affordable housing through this route, and contributions for local infrastructure and services.

24. Some suggested that fire safety was not a planning matter and therefore should not be included as a prior approval. Some stated that the transport prior approval did not go far enough compared to the prior approval in existing rights.

25. Suggested additional prior approvals included:

- an assessment of the agent of change principle,
- assessment of impact on businesses – vacancy criteria
- consideration of impacts of new residents in industrial areas, commercial areas
- provision of services to new residents
- loss of key local services

- impact on the night-time economy
- restrictions on areas where loss of commercial space to residential would be detrimental to the area

Question 3.2: Are there any other planning matters that should be considered?

26. Among the 697 responses, there was strong support that additional planning matters should be considered, including from local planning authorities, developers and personal responses.

27. A key consideration was the potential loss of viable retail space and the impact that the uncontrolled loss of such uses could have on the high street. Other considerations focussed on the suitability of the location for residential use, such as in 'out of town' commercial areas, lack of local services, amenity, air quality, and the impact on existing residents from issues such as privacy and overlooking. The lack of affordable housing was raised, alongside views about the demands that unplanned residents can place on existing local services. Some took this question as an opportunity to express their opposition to the right.

28. Suggested additional prior approvals included:

- tests on vacancy and "surplus to requirement" criteria
- the impact on whether the location or siting of the building makes it impractical or undesirable for the building to be changed to residential (similar to Class Q of the GPDO)
- consideration of the level of car parking provision
- impact of the loss on sustainability of key shopping areas and adequate provision of services
- adequate amenity for prospective residents
- the impact of the loss of the commercial premises on the economy including evidence that the commercial use is no longer viable through evidence of marketing for a reasonable period
- impacts on health and the quality of life
- privacy and overlooking
- provision of affordable homes
- servicing to include provision of storage for waste, recycling and bikes

Applications for prior approval and fees

29. Views were sought on the proposal to set a fee of £96 per dwellinghouse, capped at a maximum of a fee for 50 homes, which would accompany each application for prior approval.

Question 4.1: Do you agree that the proposed new permitted development right to change use from Commercial, Business and Service (Class E) to residential should attract a fee per dwellinghouse?

30. Among the 674 responses, there was strong support for the introduction of a fee per dwellinghouse, including from the private sector, such as developers, builders etc, and local planning authorities.

31. The vast majority of local authorities agreed that the proposed permitted development right should attract a fee per dwellinghouse. In particular it was felt that this would be a better reflection of the costs of determining such applications. Private sector responses, which included developers and builders, similarly supported a fee, noting that it would help local planning authorities.

32. There was a range of other comments received, including:

- there should be no fee for prior approvals
- there should be a fee only for dwellinghouses up to a minimum number
- there should not be a cap on the maximum fee
- the costs of determining an application should be covered by the developer and not the taxpayer, and that given the viability of residential development in England planning fees were a very small proportion of the cost of the overall development

Question 4.2: If you agree there should be a fee per dwellinghouse, should this be set at £96 per dwellinghouse?

33. While 641 responses to the question were quite mixed, with about half saying they did not support a fee of £96, the comments were broadly in support of a higher fee.

34. It was noted that the proposed £96 fee went against the government's intention as set out in the Planning for the future white paper to reduce the impact of the planning system on the public purse. It was suggested by a local planning authority that while the proposed fee was 20% of that for a planning application, the work entailed would be more than 20% of the time normally taken to determine a planning application. There were suggestions in support of locally set fees reflecting land value and local circumstances, and for low fees to attract small and medium enterprises.

35. There were a wide range of suggestions of what a fee might be: £50 (to encourage small developers), £96 (as proposed), £100 (rounded up), £206 (mirroring that for extension to a dwellinghouse), £231 (half the application fee), £462 (mirroring the planning application fee) and of course, no fee. There were varied views on whether there should be a maximum fee set or not.

Question 5: Do you have any other comments on the proposed right for the change of use from Commercial, Business and Service use class to residential?

36. This question attracted 790 responses, with additional comments provided by local planning authorities, developers, and individuals.

37. Many took this question as an opportunity to state their objection to the introduction of this right. Many noted the risk to high streets from the loss of retail and other commercial uses. Some local planning authorities noted that their local plans supported new homes in town centres, providing a balance of uses, and with affordable housing and contributions for important infrastructure. There was a suggestion for a size limit, and for it to apply to vacant buildings so that it did not impact on businesses that were trying to recover from the COVID-19 pandemic. Views were expressed about the impact on smaller settlements and the potential for losing vital local services, leading to unsustainable development. Views were also raised about the absence of an affordable housing requirement.

38. There was some support for the measure, with benefits to the economy cited as well as support in meeting the housing shortage. A response suggested that article 4 directions should not be allowed in relation to this measure.

Public Sector Equality Duty Assessment and impact assessment

39. Comments were sought in relation to any impacts the proposals covered in Part 1 might have on people who share a protected characteristic by reference to the Public Sector Equality Duty contained in the Equality Act 2010.

Question 6.1: 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?

40. Among the 702 responses, there was a strong support for the view that the right could impact on business, communities or local planning authorities.

41. Many expressed views that the proposals would incentivise landowners to realise the residential value of the land. This would negatively impact on businesses, through closure or displacement, shortage of suitable space and higher rents, and lead to a loss of employment opportunities. It was noted that once a premise in Commercial Business and Service use changes to higher value residential it would not be able to return, changing the character, vitality and viability of town centres, high streets and other areas.

42. It was suggested that local communities would lose their voice in shaping their town centres through local plans and in respect of individual applications as comments would be limited to matters of prior approval. Local communities might also be impacted by the loss of local shops and services, such as health centres, and would not gain any affordable housing, nor benefit from contributions to local infrastructure.

43. The proposals would impact on the ability of local planning authorities to plan effectively for their town centres and high streets and wider economy, and the mix of housing the community needs.

Question 6.2: 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 protected characteristics?

44. Among the 648 responses, there was considerable support for the view that the proposed permitted development right could lead to impacts on those with a protected characteristic.

45. Two key areas drew particular consideration. The first regarded the inability to consider the impact of the loss of key local services or the impact on the sustainability of a local shopping area, which could lead to the loss of health centres, nurseries, day centres and local shops used by children, the elderly and those with a disability. The second related to the fact that permitted development rights do not require affordable housing or financial contributions, which could lead to less affordable or sheltered housing units available for people who require protection.

Government response to Part 1

46. To support the diversification of high streets and wider housing delivery, the government is to lay legislation to introduce a new national permitted development right for the change of use from Commercial Business and Service (use class E) to residential use (C3 dwellinghouse). The right will make an important contribution to housing delivery, including in suburban and rural areas.

47. Reflecting responses to Question 1 that the right should only apply to smaller buildings, the right will provide for up to 1,500 sq m of floorspace to change use. To go further, reflecting comments on the potential impact on business, the building must have been vacant for at least three continuous months. This will help focus the right on smaller buildings that may more easily change use, and which are already vacant, thereby protecting existing businesses. Larger buildings may continue to be brought forward for redevelopment under a planning application, and in such cases may attract affordable housing.

48. To ensure more buildings benefit from the right in future, the right will not require the building to have been in use on a specified date, however it will require it to have been in Commercial Business and Service use for two years before it is able to benefit from the right. Time spent prior to 1 September 2020 in predecessor use classes, such as A1 shops or B1 (a) offices, that are now encompassed by the Commercial Business and Service use class will count towards this period.

49. As set out in the consultation document, the right will not apply to listed buildings, or scheduled monuments etc. It will not apply in National Parks, and Areas of Outstanding Natural Beauty, however it will apply in conservation areas. In such areas, a specific prior approval will allow for local consideration of the impact of the loss of the ground floor Commercial Business and Service use on the character of the conservation area.

50. The matters for prior approval set out in the consultation document are being taken forward as planned. As a result of comments received in response to Question 3 about the impact on residents from unsuitable locations, the proposed prior approval to consider the impact on future occupiers from the introduction of residential use in an area that is important for general or heavy industry, and waste management, is being expanded to include storage and distribution. This may include a mix of such uses. Responding to questions on prior approval and the Public Sector Equality Duty, the right will in addition allow for the local consideration of the impact of the loss of health centres and registered nurseries on the provision of local services.

51. The right will attract a fee of £100 per dwellinghouse. This strikes a balance between supporting local authority resource and encouraging future development. A fee will be introduced via separate legislation in due course.

52. Comments on the potential impacts of the right on those who share a protected characteristic, have been taken into account in the Public Sector Equality Duty Assessment.

53. Applications for prior approval may be submitted from 1 August 2021. The legislation will make provision for applications for prior approval and appeals under the existing permitted development right for the change of use from office to residential (Class O) which will be subsumed into this new permitted development right. The legislation will carry over any existing Article 4 directions which relate to development under the Class O permitted development right so that they may continue to apply until 31 July 2022. The government has consulted on amendments to national policy on the use of Article 4s and will respond to that consultation at the earliest opportunity.

2. Supporting public service infrastructure through the planning system

54. Part 2 of the consultation sought views on proposals to support the delivery of public service infrastructure through changes to existing permitted development rights. This is to enable vital public infrastructure to respond quickly to the societal and economic effects of COVID-19, help existing sites deliver additional capacity and enable more efficient and effective use of land.

Providing further flexibilities for public service infrastructure through permitted development rights

55. Views were sought on amending the existing national permitted development right which allows schools and other educational establishments and hospitals to be expanded (without the need for a planning application) by up to 25% of the footprint of the current buildings on the site or up to 250 metres, whichever is the greater, and to raise the height limit from 5m to 6m, subject to any necessary protections. This was partly to enable vital public infrastructure to respond quickly to the societal and economic effects of COVID-19. Building on these flexibilities, comments were also sought on allowing prisons to benefit from the same rights as schools, colleges, universities and hospitals to expand their facilities.

Question 7.1: 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 greater?

56. There were 634 answers to this question and the results were mixed, with under half supporting, around half disagreeing and the remainder not expressing an opinion.

57. Some responses welcomed the flexibilities it would give to public service infrastructures to develop more quickly given the increasing demand on these services, as well as the support it would offer local planning authorities to focus on more strategic development and place making by taking these smaller scale applications out of the planning system. However, views were expressed about the possible impact of such development on neighbours, the community and how this would lead to the loss of local decision making.

58. Some noted in particular that, given their scale and sensitivity of locations, the expansion of universities by up to 25% would need local consideration, especially on the character of the area through design choices, highways and transport implications and impacts on heritage and archaeological assets.

Question 7.2: Do you agree that the right be amended to allow the height limit to be raised from 5 metres to 6?

59. There were 617 responses to this question with a similar amount agreeing and disagreeing with the proposed changes, and less than a third offering no opinion.

60. Some who agreed raised the prospect that the change in height was relatively minor, and they would not expect significant impacts. It was also suggested that this increased height on new buildings would enable a second floor to be constructed, allowing for better use of land delivering the public infrastructure needed to support local communities.

61. Those who disagreed argued that the policy could lead to overlooking, impacting on neighbouring properties. Some also raised issues over the apparent lack of a height limit on plant (e.g. air conditioning units) above the 6 metres to be allowed for new buildings. Views were also expressed as to the loss of local input into the decision-making process and some responses stressed that local circumstances needed to be taken into account.

Question 7.3: Is there any evidence to support an increase above 6 metres?

62. There were 590 responses to this question, with the majority responding that there was no evidence, or they didn't know of any evidence to support an increase above 6 metres. Less than 6% answered that there was evidence in support of an increase above 6 metres.

63. Some of those opposed raised matters such as overlooking and overshadowing, the impact on the character of a local area and the need for local consideration of these issues. Some who were supportive of the move from 5 metres to 6 metres for new buildings noted that they would not be supportive of an increase beyond 6 metres. Others in support noted that it would intensify use on already developed land, leaving greenfield land undeveloped, making best use of brownfield land.

Question 7.4: Do you agree that prisons should benefit from the same right to expand or add additional buildings?

64. There were 602 responses to this question and responses evenly mixed with around a third agreeing, a third disagreeing and a third being unsure.

65. Responses in support raised matters of overcrowding in prisons and the importance of new measures to allow expansion. Benefits noted included reduced time and cost to taxpayers in the expansion of prisons, and that given that prisons were behind perimeter fences and the use in that location was already established, expansion of these facilities was less likely to have a significant impact on the local community.

66. Other respondents felt that expansion of prisons should come forward through the full planning process and allow for local residents to comment and consider the impact on the community. Views were also expressed that the use of a permitted development right would not allow for proper planning and the full potential of an area to be achieved.

67. It was recognised that some projects could raise issues of concern to the community, especially if there was no opportunity for elected local councillors to make representations on such developments, but which might require the same level of scrutiny available through the full planning system. Some requested that a prior approval process be put in place to allow for consideration of various issues locally.

Question 8: Do you have any other comments about the permitted development rights for schools, colleges, universities, hospitals and prisons?

68. There were 285 additional comments made in response to this question, covering a wide range of views, including: respondents questioning whether a 'one size fits all' approach through permitted development rights was suitable for these types of extensions which would result in all premises being treated in the same way. There were also criticisms of the lack of prior approval process and the impacts that expanded development could have on highways, parking, biodiversity and various other important issues.

69. Particular attention was drawn to the expansion of universities, with some respondents noting the potentially large scale footprint of universities, given they are spread across cities and campuses, and how this could result in large development impacting on the character of the local area.

70. Some welcomed this approach, as it would allow local planning authorities to focus on more strategic work and plan making, and that it was right that these uses, which provide important public services, should be allowed to expand more quickly to support their local communities.

Government response to questions 7.1-8

71. The government has clear Manifesto commitments to support the delivery of important public infrastructure. Giving more flexibility through this permitted development right to schools, colleges, universities, hospitals and prisons will ensure we can deliver these important infrastructure projects more quickly, benefitting local communities sooner. We are therefore proceeding with the proposed amendments to this permitted development right.

72. We have noted the views expressed about the expanded rights that would be given to universities, given their scale, potential scope of the footprint of a university, and often sensitive locations across city and town centres and campuses close to or consisting of important heritage and archaeology assets. We will therefore introduce a prior approval process to allow local authorities to give consideration to the impact of the expansion of universities on design, heritage and archaeology, highways and transport. Prior approval means that a developer has to seek approval from the local planning authority that specified elements of the development are acceptable before work can proceed. This will ensure that robust consideration of those matters raised in the consultation will be considered as part of the approval process.

73. We are retaining existing limits on development around site boundaries, and new buildings will only be allowed up to 6 metres where it is more than 10 metres from a boundary. Existing protections around playing fields will remain in place. There is no proposal to increase the height limit for new buildings further than 6 metres.

74. Reflecting issues raised through the consultation we will introduce a limit on the height of plant, which can only be located on the roof of a building.

75. There is a need to refurbish existing and new prison accommodation. We have taken into account the consultation responses and issues raised in developing this policy, and we have decided to proceed as proposed in the consultation with the expansion of this right to prisons. We will legislate so that the right will only apply to closed prison sites that operate behind a secure perimeter boundary, and as with schools, colleges, universities and prisons this only applies to existing established prisons.

Question 9.1: 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?

76. There were 598 responses to the question, with over half considering that the proposed amendments could have a range of impacts. Overall, the ability for public sector infrastructure to increase its capacity to respond to demand was considered important for society and the local economy. Some respondents felt this would benefit users of the facilities from the local community and beyond, as well as businesses through increased construction work, and local authorities through a reduction in planning applications.

77. Some responses considered that the proposals could lead to wider negative impacts such as traffic problems due to an increase in those accessing the expanded premises, or additional parking requirements that cannot be accommodated on site. However, it was expressed by some that due to the size caps proposed any resulting developments should not be of such a scale as to give rise to significant issues.

Question 9.2: 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?

78. There were 570 responses to the question, with around a third considering that the proposed amendments could have impacts on people who share a protected characteristic. Of those responding, many considered that speeding up public infrastructure delivery would bring benefits to protected groups as they often used such facilities, either as customers or employees. It was acknowledged that any new buildings created would still need to meet the accessibility standards set out in Building Regulations. However, others considered that the lack of consultation associated with permitted development could potentially exclude those with such characteristics from providing an input to the decision-making process, which could potentially lead to impacts on them if their views were not taken into account.

79. These comments have been taken into account when preparing a public sector equality duty assessment regarding the changes being taken forward.

Question 10.1: Do you think that the proposed amendment to allow prisons to benefit from the right could impact on businesses, communities, or local planning authorities?

80. There were 568 responses to the question, with just under half considering that the proposed amendments could have impacts, some positive and some negative. Examples of impacts raised included a loss of public scrutiny from local communities over development proposals, whilst others noted the benefits of public infrastructure spending for businesses, as well as freeing up local authority time. Overall, respondents did not think the proposal would necessarily impact on communities, businesses, or local authorities, as the development would be undertaken within an enclosed existing site. Some respondents noted that the measure could reduce the amount of work for local authorities through not having to consider so many planning applications and could benefit businesses through increased construction work and also passing trade locally if sites had increased usage, e.g. more visitors and staff.

81. Some respondents raised expressed views about potential local impacts, such as increased traffic and highways issues locally if there was an increase in the use of a site, potential visual intrusion if sites were expanded, and increased noise and light pollution arising from an increase in activity at a site.

Question 10.2: Do you think that the proposed amendment in respect of prisons could give rise to any impacts on people who share a protected characteristic?

82. There were 553 responses to the question, with around a third considering that the proposed amendments could impact on people who share a protected characteristic.

83. Those who considered there would be impacts noted that the lack of consultation associated with permitted development could potentially exclude those who share a protected characteristic from engaging with the decision-making process. Others felt that the proposals could lead to a reduction in outside space at prisons. This could reduce the ability for recreation and other activities and so could give rise to greater difficulties in ensuring the safety and well-being of prisoners who are vulnerable to attack or discrimination based on protected characteristics such as sexual orientation, race, religion, and gender reassignment.

84. Other responses considered that the proposals should make it easier to improve and modernise prison facilities to the benefit of those that use them, many of whom will share a protected characteristic.

Government response to questions 9.1-10.2

85. We welcome respondents' views on the potential impacts of the measure on those who share a protected characteristic, which will help discharge the Secretary of State's duties under the Equality Act.

86. All comments have been taken into consideration in preparing an assessment of impact and a full public sector equality duty assessment regarding the changes being taken forward.

A faster planning application process for public service developments

87. As part of the wider strategy to support the development of hospitals, schools, further education colleges and prisons, Part 2 of the consultation sought views on introducing a faster planning application process for those types of public service development, including development on new sites, which were outside the scope of the proposed permitted development right changes.

What public service developments should be in scope?

88. For the new faster process to be effective and focused on important public service projects requiring planning permission, we proposed a clear definition based on the scale and definition of the proposed development. Paragraphs 43 and 44 of the consultation set out a number of features to encourage greater prioritisation by local planning authorities of these projects, including shorter timescales for determination and how they would be identified as a subset within the major development category.

Question 11: 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 developments screened as requiring an Environmental Impact Assessment)?

Question 12: 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?

89. There were just over 500 responses to questions 11 and 12 respectively, with support and opposition equally balanced.

90. The development sector showed considerable support for the measure, with calls to extend the process to include applications for all healthcare centres, mental health and social care facilities, universities, non-public funded projects such as sewage treatment works and major housing developments. In general, however, respondents agreed that should the policy be introduced, it should not apply to developments which have been screened as requiring an Environmental Impact Assessment. Expanding the scope of eligible projects would also undermine the process and the need to prioritise applications.

91. Responses across different sectors suggested that applications relating to prisons, young offenders' institutions and criminal justice accommodation should not be subject to the modified process as these were most likely to raise issues of contention in local communities. More widely, views were expressed around the proposed shorter consultation period, impacts on determination, as well as local authority resourcing. Some local authorities, however, did acknowledge that the measures were unlikely to impact on them owing to the low frequency with which they receive these types of public service infrastructure application.

Government response to questions 11 and 12

92. We intend to apply the new measures to major public service development involving hospitals, schools and further education colleges, prisons, young offenders' institutions and other criminal justice accommodation excluding development which has been screened as requiring an Environmental Impact Assessment.

93. The policy will help deliver faster decision making for new and critical public service development (in line with the government's commitment to prioritise key public service projects. We recognise that some projects, by their nature, could create significant debate within the community.

Faster decision-making

94. A key change in the modified procedure was the proposal to introduce a new statutory determination period of 10 weeks for these planning applications, which would incentivise local planning authorities to prioritise these decisions over other applications for major development (which have a 13-week determination period). We sought views on the shorter timescale, based on it speeding up decision making for significant public service development, as well as encouraging positive, proactive, and effective pre-application engagement between all parties.

Question 13: Do you agree the determination period for applications falling within the scope of the modified process should be reduced to 10 weeks?

95. There were 534 responses to this question, with the development sector showing considerable support, based on the proposal enabling faster turnaround times for projects, increasing sector confidence in the planning process and potentially lowering costs for developers.

96. Local planning authorities and statutory consultees, whilst supportive of the need to help deliver faster decision making for new and critical public service development, were strongly opposed to shortening the determination period without additional resources being made available, or for pre-application engagement for such developments to be mandated.

97. Views were expressed about potential unintended consequences, including the risk that local planning authorities might be compelled to refuse to grant planning permission in the event that substantive issues were still to be resolved within the shorter timescale. Statutory consultees raised similar issues, arguing that delays were often due to insufficient information being provided by the applicant, familiarity with the process or complexity of the scheme, which could lead to them seeking an extension to the response period, potentially impacting on the overall determination period.

Government response to question 13

98. We intend to introduce a statutory determination period of 10 weeks for such applications (rather than the current 13 week period).

99. Although local authorities and statutory consultees raised objections to the proposal, we believe that, on balance, a 10 week period incentivises prompt consideration of these applications whilst providing sufficient time for necessary consultation and consideration.

100. In response to views about potential resource pressures in meeting the shorter determination period, it is expected that key planning matters will be resolved as part of the pre-application engagement.

101. Relevant government departments are committed to taking action to ensure that there will be positive, pro-active and early engagement with local planning authorities and statutory consultees for the types of projects falling within scope of the modified procedure, so that potential issues can be addressed before an application is submitted. It is also the case that the number of relevant applications will be very low, and most authorities are unlikely to receive more than one application at a time so should have scope to re-prioritise workloads within existing resources.

102. It will still be possible for the applicant and local planning authority to agree an extension of time where issues remain to be resolved.

Consultation

103. To further support faster decision-making, we invited comments on our proposal to reduce the minimum period for public consultation from 21 days to 14 days (maintaining the current requirement to add extra days if the consultation period includes bank or public holidays). We considered this appropriate as we expect many of the developments in scope of the modified procedure will already have been subject to extensive prior engagement with the local community. A reduced period would apply also to statutory consultees, who, like local planning authorities, would be expected to prioritise these cases.

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

104. This proposal drew strong reactions from among the 559 responding, with local planning authorities and statutory consultees overwhelmingly opposed to the measure.

105. Views were expressed that the shorter timeframe proposed was an unrealistic deadline for complex major applications and could undermine community trust in the planning system. It would also put additional pressure on local planning authority resources.

106. Views were expressed by statutory consultees about having insufficient time to respond substantively to these applications, assessing all the impacts. The development sector showed considerable support for the proposal, seeing it as a necessary step-change towards online planning in an increasingly digital world, whilst improving efficiency and accessibility.

107. Around a third of developers did not support the measure, stating that the consultation period of 21 days was already established and accepted and that in order to meet the shorter period, local planning authorities would have to prioritise these types of development, possibly at the expense of other, important development proposals, such as housing.

108. Some respondents considered that shortening the period for consultation with members of the public could reduce the ability of those with protected characteristics (particularly the elderly and disabled) to respond in time.

Government response to question 14

109. Having regard to the issues raised, in particular by local planning authorities, statutory consultees, and members of the public, we intend to shorten the statutory consultation period for these developments to 18 days (from the current 21 days) rather than 14 days proposed in the consultation. We consider this strikes the right balance between this faster process and consultation. The 18-day period is a statutory minimum and local planning authorities will retain the discretion to extend the period for representations, where they consider it necessary.

Notifications to the Secretary of State

110. In order to promote greater transparency, we also proposed requiring local planning authorities to notify the Secretary of State when they receive a planning application for these developments, to allow for effective engagement, support and monitoring, and for local planning authorities to inform the Secretary of State when they anticipate making the decision.

Question 15: 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?

111. There were 496 responses to this question, with strong opposition from local planning authorities, who were unclear as to the value of the measure, including how it would create greater transparency when councils already post details of planning applications publicly online, and the extra burden it would place on them. Statutory consultees, interest groups and charities expressed similar views. There was considerable support from the development sector who viewed the notification process as a means for holding local planning authorities to account, although some within this group also had reservations about the merits of the measure, particularly if it came at the cost of other applications where development was equally needed, such as housing.

Government response to question 15

112. Whilst many respondents questioned the benefits of requiring notification to the Secretary of State, we consider that monitoring these developments will allow us to gauge whether the process is being applied properly and support effective engagement. Ensuring these projects are delivered quickly is an important part of implementing the Project Speed agenda. We will therefore proceed

with introducing this measure. It does not remove the ability of the Secretary of State to call-in applications, nor an applicant's right to appeal to the Secretary of State if the local planning authority fails to give notice of its decision within the relevant statutory period (if there is no extension agreed).

Other matters – guidance, fees

113. The consultation also sought views on our proposal to amend the National Planning Policy Framework and Planning Practice Guidance to make clear that local planning authorities should take a proactive approach to engage key delivery bodies and other stakeholders at the pre-application stage. This would help identify and resolve key planning issues before applications in scope of the modified procedure were submitted. We did not consider it necessary for the planning application fee to change for these types of development, despite the determination process being faster, as the requirements for consultation and publicity would still apply, as would the usual duties of local planning authorities in line with existing legislation.

Question 16: Do you agree that the policy in paragraph 94 of the National Planning Policy Framework (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?

114. There were 561 responses to this question, with strong cross-sector support which recognised that public service providers delivering these key developments would need to engage with local planning authorities at an early stage, so that the right information was available to enable decisions to be made more quickly.

Government response to question 16

115. To help ensure all parties, including local planning authorities and statutory consultees, engage effectively and proactively with the faster process we will extend the policy on pre-application for applications for significant public service development as part of the next revision of the NPPF later this year. In response to calls to mandate pre-application engagement with local planning authorities, this would require primary legislation and is outside the scope of these proposals.

Question 17.1 and 17.2: Do you have any comments on the other matters set out in this consultation document, including post-permission matters, guidance, and planning fees? Do you have any other suggestions on how these priority public service infrastructure projects should be prioritised within the planning system?

116. There were over 500 responses to these questions, with less than half providing further comments. For those who did comment suggestions were focussed on the following key themes:

- post-permission matters – it was argued that the speed of handling post permission matters – especially section 106 agreements – depended to a large extent on the quality of information submitted and that further resourcing would help mitigate this
- fees – there was considerable support among local authorities for raising planning application fees to mitigate the resourcing implications of the proposed changes, and that these should be set at the local level on a cost recovery basis to reflect the actual costs of determining the

application

- guidance – there were further calls from local authorities to mandate pre-application, with discussion of conditions a key component of this, though some acknowledged that Planning Performance Agreements could also be used in this regard. The development sector suggested that apart from encouraging engagement, guidance should also consider what constitutes a material consideration for development falling within scope of the modified procedure

Government response to questions 17.1 and 17.2

117. We welcome the range of points made in response to these questions and will keep them under review.

Public Sector Equality Duty

Question 18: 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?

118. There were 421 responses to this question with about half stating there would be an impact. More than half did not consider there would be any adverse impacts, but some called for a separate assessment to fully inform the impacts.

119. Responses across the different groups raised similar points about the shorter consultation period potentially impacting hard-to-reach groups such as the elderly and the disabled, who might require alternative arrangements to be made available in order to view plans and/or visit the site in question, or who might be less digitally enabled. Retaining the existing 21 day period, it was argued, would increase the potential for such groups to engage with the process.

Government response to question 18

120. We welcome respondents' views on the potential impacts of the measure on those who share a protected characteristic, which will help discharge the Secretary of State's duties under the Equality Act and inform a full Public Sector Equality Duty prior to secondary legislation being laid.

3. Consolidation and simplification of existing permitted development rights

121. Part 3 of the consultation document sought views on the potential approach to making necessary consequential changes to existing permitted development rights following the amendments to the use classes introduced from 1 September 2020. It further set out the intention to simplify and rationalise existing rights, and to bring forward legislative amendments before 31 July 2021.

122. The 'review and update' is a significant and complex exercise requiring consideration of those rights affected across the entire Order. While this Part of the consultation document attracted a significant number of responses and comments, many of them focused on broader issues, such as the reform of the use classes order (particularly the Commercial, Business and Service use class) and permitted development rights for the change of use to residential. Some responses noted that these were technical issues and some that further information was required.

Question 19.1: 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?

123. There were 598 responses to this question, with more than half agreeing to the broad approach to be taken in respect of categories 1 (the right is no longer required), 2 (no amendment necessary) and 3 (may be replaced by the proposed right for the change of use from The Commercial Business and Service to residential.) As noted above, many responses focused on broader issues, unrelated to the question asked.

124. Where specific comments were made, there was support for Categories 1 and 2. This broadly recognised that changes are required to ensure that permitted development rights remain up to date. Comment on Category 3, which referenced the existing right for the change of use from offices to residential, frequently repeated views given in Part 1 of the consultation opposing the introduction of the right for the change of use from Commercial Business and Service use to residential and commenting on the broader application of the proposed permitted development right.

Question 19.2: Are there any additional issues that we should consider?

125. There were 494 responses to this question, with more than half responding to say that there were no additional issues to consider. However, there were 283 specific comments made in response to this question.

126. There was a diverse range of views including on the changes to the use classes, and in respect of permitted development rights support for maintaining existing controls and protections, that any change to category 3 rights should be supported by a robust prior approval process, and that rights should, and should not, apply in National Parks etc.

127. There were broader comments that such rights undermine local and neighbourhood plans and calls for transitional arrangements moving to the amended rights referring to the new use classes.

Question 20: Do you agree 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?

128. There were 583 responses to this question, with more than half agreeing that betting shops and pay day loan shops etc, that are currently able to change use to a use within Class E should in future be able to change to the broader Commercial Business and Service (E) use class.

129. It was suggested that the change of use should be subject to consideration of appropriate prior approvals and preserve existing exclusions. There was a clear view that once having changed into the Commercial Business and Service use class such premises should not then be able to benefit from the proposed right to change use to residential.

130. While there was support for the change of use from such uses, there was a clear view that a planning application should continue to be required for the change of use to such uses. Similarly, some responses wanted to retain the protections for other uses such as theatres, cinemas, and pubs by continuing to require a planning application for the change of use from such uses.

Question 21: Do you agree the broad approach to be applied in respect of category 4 outlined in paragraph 76 of the consultation document?

131. There were 558 responses to this question, with 255 providing comment. The consultation document set out that those rights that fell within Category 4 were those that required individual consideration, giving some examples of the types of issues to be explored and noting the intention to simplify and rationalise rights where possible.

132. Responses to this question were much more varied with just less than half agreeing and the same reporting they did not know. There was a view that the growth in permitted rights over the last few years had led to a complicated set of rights and a review and simplification would therefore be welcomed. Some responses stated that this should not result in the loss of important planning considerations and protections, the absence of which could have an adverse impact on local communities and business, or other unintended consequences.

133. Some responses suggested that while the consultation document had set out the broad approach, it was not clear what that meant in practice for individual rights and that therefore there should be a further consultation. It was further suggested that detailed guidance should be provided on the amended rights, once introduced.

Question 22: Do you have any other comments about the consolidation and simplification of existing permitted development rights?

134. There were 573 responses to this question. While more than half said they had no further comments, in practice 277 provided comments. Again, there were a range of views, and often broader than the specific issue of consequential changes to consolidate and simplify rights. While there was some support for simplification, there were also calls for there not to be further deregulation, noting the importance of local decision making. There was strong support for the continued, and potentially strengthened, protections for national parks, conservation areas and listed buildings etc. and for the rights to provide for local consideration of appropriate matters for prior approval.

135. There was a view that any oversimplification could lead to unintended consequences for communities. There was a call by some for further consultation on the detail of the proposed individual changes, and also for the General Permitted Development Order to be consolidated following the review.

Government response to Part 3

136. We welcome the range of points made in response to these questions and will consider these as we take forward the work to scope proposed changes to individual rights. Reflecting comments received, we will undertake a short technical consultation on the detailed consequential changes to individual rights. This further consultation will be published on GOV.UK. This will enable government to bring forward legislation to make consequential changes prior to 1 August 2021.

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