



Supporting housing delivery and public service infrastructure consultation

Introduction

The County Councils Network (CCN) represents 36 English local authorities that serve counties. The 25 county and 11 county unitary authorities that make up CCN are the largest part of the local government family. They represent all four corners of England, from Cumbria to Cornwall, Durham to Kent, North Yorkshire to Suffolk, Derbyshire to Essex.

The planning system plays a key role in supporting economic growth, and must consider all elements of places, and not just housing, if we are to deliver truly sustainable communities as we look to level-up the country. CCN members are concerned that the proposals within this consultation will undermine the democratically led planning system, and will result in a loss of faith in the system at a time when they look to kickstart economic recovery and regeneration of town centres.

We understand the desire to speed-up development and support the need to allow town centres to adapt and modernise, but do not believe permitted development is the correct way to deliver this. At a time of economic uncertainty, and when a significant amount of time and investment has been spent on shaping town centres, we believe that permitted development is a blunt tool that could have significant negative consequences on future towns and cities across the country.

CCN's key points of response are:

- We do not support a new national permitted development right for the change of use from the Commercial, Business and Service use class to residential. This will undermine the efforts of councils to invest and shape their towns and cities, and could lead to the delivery of substandard housing, sometimes in inappropriate locations, that are not supported by adequate social and physical infrastructure.
- We do not support the proposals to support the delivery of public infrastructure through permitted development rights. These often-complex projects require significant assessment and mitigation, and often receive high levels of representations from residents. We are concerned that the proposals would undermine public confidence in the planning system at a time when the Government aspires to get more communities involved in the planning of their local area.
- We believe that much more engagement is required before making changes to the General Permitted Development Order. We believe councils should be fully engaged with the proposals so that both parties can understand the impacts that these proposals would have on the Use Classes Order.

Our full response is outlined below.

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

- 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? Please give your reasons.**

For reasons set out in the introduction to this consultation, CCN members do not agree with the proposed new permitted development right. We believe councils are best placed to determine how buildings are used, and how places evolve, through their local plans and in consultation with residents.

If the Government is minded to introduce such a permitted development right, it should be at the discretion of councils to adopt it in their areas, and councils should be able to set clear guidelines around which areas across their authority the right should apply, if any.

- 2. i) 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? Please give your reasons.**

We agree that the right should not apply in the areas outlined above.

- ii) Do you agree that the right should apply in conservation areas? Please give your reasons.**

We do not agree that the right should apply in conservation areas. Permitted development rights undermine the ability of councils and residents to manage, preserve and enhance conservation areas – all of which differ greatly in their character and appearance. The cumulative impact of development that could come forward without any local authority oversight could, over time, erode the special character of a conservation area and would be detrimental to the overarching strategic objectives of the National Planning Policy Framework to conserve and enhance the natural, built and historic environment as set out at paragraph 20. We would also point out that the Building Better Building Beautiful Commission advised in their report, Living with Beauty, against allowing permissions such as permitted development to be available in conservation areas and for listed buildings.

If this new permitted development right does come forward, we would ask that councils are able to freely exercise their rights to impose Article 4 directions across areas that they think it would be inappropriate for the new right to be exercised.

- iii) 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? Please give your reasons.**

As set out above, we do not believe that the permitted development right should apply in conservation areas. If the new right does come forward, then prior approval of the

impact of the loss of ground floor use of a building to residential within a conservation area should be required.

3. i) 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? Please give your reasons.

As set out in previous responses, we do not agree with the proposed permitted development right. Notwithstanding this, should the right come forward, we would agree with the matters set out at paragraph 21, but believe this list should be expanded as set out below in our response to question 3b.

ii) Are there any other planning matters that should be considered? Please specify.

It is widely recognised that permitted development rights for change of use from offices to residential homes have often produced poor quality housing that would often not be permitted if it was determined through the traditional planning permission route. CCN members remained concerned that homes built through the new permitted development right would result in substandard accommodation that would not be served by appropriate infrastructure. We therefore believe that any dwellings brought forward through the new permitted must meet minimum space standards, and contribute towards local infrastructure through developer contributions where necessary. This should be at the discretion of the local authority and not set out in national policy.

The 'health' of town centres should also be an important factor in the determination of any prior approval application. In many areas – particularly in those that are considered 'higher value' – this will provide a big incentive to landlords and property owners to convert properties in order to extract the higher values. In recent years there has been a big focus from government and local authorities to renew town centres and prepare strategies to ensure they are responsive to market conditions, and still provide a range of retail, services and leisure uses that are used and welcomed by local communities, and are accessible to all residents including those may live in more rural areas. We provide more information in our response to question 5 below, but CCN members believe that the new permitted development right would undermine these strategies and could have serious impacts on the health of town centres.

The new permitted development right would allow a range of uses to be converted into housing without the need for planning permission. The new Use Class E includes some industrial uses, including research and development and 'any industrial process'. Some of these uses are likely to be in locations that would be unsuitable for housing, and are not supported by the appropriate infrastructure that make places liveable – such as local shops, schools and access to public transport.

Furthermore, upper tier county councils are responsible for waste management, and many waste management facilities are located on industrial estates. These sites can often be incompatible with residential uses due to the nature of the operations including the use of plant and machinery giving rise associated noise, odour, dust and other disturbances. Whilst we note that the proposed prior approval should consider matters such as the impact of noise from existing commercial premises on the intended

occupiers of the development, CCN members believe this should go further to recognise other impacts such as dust, light and impacts from associated vehicle movements.

Any changes to permitted development rights should not allow for the incompatible developments to be situated in the vicinity of waste sites without the prior consultation with the waste planning authority. It is noted that the consideration for prior approval would have to include necessary safeguards to ensure new homes are in suitable locations including assessing the impact on the intended occupiers from the introduction of residential use in an area the authority considers is important for heavy industry and waste management.

The consultation does not make it clear whether consideration has been given to issues of encroachment and incompatible development in relation to minerals related development i.e. at ports. Many ports have industrial or commercial units nearby. Minerals related wharves receive deliveries by ship day and night and any residential development would be incompatible with these types of uses. Ports are often considered desirable locations for residential uses, however they are key infrastructure sites for the import of aggregates. Similarly, minerals related infrastructure such as aggregates processing plants should not be constrained by the proposed changes to permitted development rights.

The proposed changes could significantly limit the locations in which future waste and minerals development is located as sites which have potential to become waste management sites could be converted to residential or suitable sites may end up being in close proximity to residential thereby making them unsuitable for waste/minerals related development. If the new right comes forward, CCN members would like an additional requirement for planning authorities to consult with County Planning Authorities in cases where the proposed change would impact waste/minerals development should be proposed within changes.

Given the above, CCN members recommend that the following matters are added to the proposed list of prior approvals:

- Whether the new dwellings meet the Nationally Described Space Standards.
- Impact on existing infrastructure and requirement for CIL/Infrastructure Levy and /or Section 106 payments.
- Cumulative impact on town centres.
- Future impact on minerals and waste operations as a result of residential development.

4. i) 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? Please give reasons.

Notwithstanding our position that we do not agree with the proposed Permitted Development Right, we believe that the fee should be set in consultation with local planning authorities.

ii) If you agree there should be a fee per dwellinghouse, should this be set at £96 per dwellinghouse? Please give your reasons.

Planning departments have seen significant cuts over the last decade, and existing planning fees do not cover the costs of process applications. A prior approval application for three units compared to 30 is unlikely to be any less time consuming. We therefore advocate that the fee should be set in consultation with local planning authorities, and should enable them to cover the costs of processing applications.

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? Please specify.

As set out above and below, there are many concerns over both the quality of the housing that would be delivered through the permitted development right, and its suitability in terms of location and access to supporting infrastructure in addition to the impact that it would have on town and city centres. The planning system provides a tool to consider the impact of development, including the cumulative impact, whilst allowing places to respond to market conditions. CCN members believe that using the traditional planning permission route to determine conversion to residential uses is the most appropriate, and democratic, route.

6. i) 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? If so, please give your reasons.

CCN members believe that the proposed right would undoubtedly have a negative impact on businesses, communities and local planning authorities. The COVID-19 pandemic has undoubtedly had an impact on towns and cities across the country. Whilst the full scale of the impact will take some time to be felt, we know that when life starts to return to some sense of normality the way communities use town centres will be different. Many local authorities, businesses and communities will be focusing efforts on economic recovery and many will already have recovery plans and strategies in place, taking into account their intrinsic knowledge of the places they serve and in consultation with businesses and residents. The proposed permitted development right would completely undermine these strategies and would impose a centralised approach to an issue that should be determined at a local level.

The proposed right also goes against the principles of community engagement that were at the heart of the recently published Planning for the Future White Paper, which set out a vision for 'world-class civic engagement'. The proposals also conflict with the recommendations outlined in the 'Build Back Better' COVID-19 Supplement for Town Centres which recommended that the use class system is deregulated, and that local authorities should be given the opportunity to develop an appropriate proposition to attract people to live, work, play and visit a unique town.¹ The proposed right has the potential to undermine public confidence in the planning system, and disenfranchise communities from becoming involved with future decisions in their areas.

¹ Grimsey Review, [Build Back Better Covid Supplement for town centres](#)

Many people will continue to work from home, at least for a portion of the working week, and those high streets where a large proportion of residents commuted away from the area may become busier as people utilise local stores and support local businesses. Conversely those towns that used to see a high proportion of people commuting in may become quieter, although a recently published report by KPMG suggests that the fall in commuter numbers is not expected to be uniform across England, with some towns and cities potentially being more exposed than others.²

CCN members recognise the importance of being flexible, and allowing places to adapt and evolve but believe that market conditions alone should not be the only factor that determines how buildings are used. Towns and their make-up are complex and require co-ordinated management. It is highly likely that once converted to residential use, buildings will never return to high street or town centre uses. As the LGA rightly points out in their response, inactive frontages and a lack of flexibility for future change of use may lead to negative knock on effects or unintended consequences such as the departure of other retail or complementary uses, removing the active street frontages and mix of uses that make high streets and town centres vibrant. The loss of revenue from business rates will create additional challenges for councils already trying to recover economically from the pandemic.

There is also the additional concern of out of town locations, often with minimal supporting infrastructure, being turned into residential areas. Certain checks and balances are needed, that wouldn't be covered by a prior approval application, to ensure that development in these areas is not wholly inappropriate.

ii) Do you think that the proposed right for the change of use from the Commercial, Business and Service use class to residential could give rise to any impacts on people who share a protected characteristic? If so, please give your reasons.

It cannot be ruled out that the proposed amendment would have impacts on people who share protected characteristics. We therefore recommend that the Government prepares an impact assessment to understand how the proposed amendment may impact on people who share a protected characteristic before the right goes ahead.

We agree with the LGA that it is important to stress that only a locally-led planning processes with the appropriate amount of time for public consultation will ensure that people with protected characteristics in each area will be able to voice their concerns and identify how this will impact on them.

Supporting public service infrastructure through the planning system

7. i) 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? Please give your reasons.

We do not support this proposal, again believing that schemes to expand public service infrastructure should be undertaken at the local level. Public infrastructure projects such

² KPMG, [The future of towns and cities post COVID-19](#)

as these can give rise to complex issues with impacts that need be mitigated. There are many other planning considerations that would need to be taken into account, such as the surrounding context of the built environment and protected areas, as well as the impact that any new development would have on aspects such as parking and public transport access, as well as the wider highway network.

Investment in public service infrastructure should happen in a co-ordinated and strategic way, and as outlined earlier in our response to the new right to change town centre uses into residential dwellings, we believe these proposals would undermine public confidence in the planning system at a time when the Government aspires to get more communities involved in the planning of their local area.

ii) Do you agree that the right be amended to allow the height limit to be raised from 5 metres to 6? Please give your reasons.

We believe that this should be at the discretion of the local planning authority taking the surrounding environs into consideration.

iii) Is there any evidence to support an increase above 6 metres? Please specify.

As above, we believe that this should be at the discretion of the local planning authority taking the surrounding environs into consideration.

iv) Do you agree that prisons should benefit from the same right to expand or add additional buildings? Please give your reasons.

For the reasons set out in response to question 7.1, we do not agree that prisons should benefit from the proposed right.

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

CCN members are concerned that the proposed right could result in development of a significant scale, without any safeguards for local residents such as traffic, disturbance, privacy or visual amenity.

9. i) 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? If so, please give your reasons.

Yes. As outlined earlier in our response at question 7.1, we believe that the proposals could give rise to significant impacts that would require mitigation, and therefore should go through the existing planning process.

ii) 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? If so, please give your reasons.

It cannot be ruled out that the proposed amendment would have impacts on people who share protected characteristics. We therefore recommend that the Government prepares

an impact assessment to understand how the proposed amendment may impact on people who share a protected characteristic before the right goes ahead.

We agree with the LGA that it is important to stress that only a locally-led planning processes with the appropriate amount of time for public consultation will ensure that people with protected characteristics in each area will be able to voice their concerns and identify how this will impact on them.

10.i) Do you think that the proposed amendment to allow prisons to benefit from the right could impact on businesses, communities, or local planning authorities? If so, please give your reasons.

Please see response to question 9.1.

ii) Do you think that the proposed amendment in respect of prisons could give rise to any impacts on people who share a protected characteristic? If so, please give your reasons.

It cannot be ruled out that the proposed amendment would have impacts on people who share protected characteristics. We therefore recommend that the Government prepares an impact assessment to understand how the proposed amendment may impact on people who share a protected characteristic before the right goes ahead.

We agree with the LGA that it is important to stress that only a locally-led planning processes with the appropriate amount of time for public consultation will ensure that people with protected characteristics in each area will be able to voice their concerns and identify how this will impact on them.

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 EIA developments)? Please give your reasons.

CCN members agree with the importance of delivering public infrastructure, but do not believe a new application process is required. In any new process, there will be a need for extra resources to allow for the meaningful and proactive pre-application engagement that this proposal anticipates, especially for statutory consultees.

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? If not, please give your reasons as well as any suggested alternatives.

Yes.

13. Do you agree the determination period for applications falling within the scope of the modified process should be reduced to 10 weeks? Please give your reasons.

No. Local authorities are under increasing pressure and have suffered from years of decreasing funding, combined with consistent changes to the system that results in delays. We disagree with the reduction of the determination period to 10 week, believing

that this would have knock-on effects to other applications – be it minor or major - that may come forward at the same time.

A 10-week determination period could lead to more applications being refused just because a decision needs to be made within a certain timescale. If a 10-weeks statutory determination period is imposed, strong guidance for local authorities and how they are expected to prioritise such applications will need to be provided and be subject to prior consultation.

14. Do you agree the minimum consultation/publicity period should be reduced to 14 days? Please give your reasons.

We do not support this proposal. Feedback from CCN members has shown that this type of development is often controversial and result in large numbers of representations being received from the local community. Although pre-application processes can also take account of residents views, it is only when they are submitted as part of a live application that they can be taken into consideration by the planning authority. In order to garner support for any development coming forward through the new right, up-front community engagement will be more important than ever, particularly if they are to be 'fast-tracked'.

In addition, it is our members experience that statutory consultees find it difficult to respond to applications within the current 21 day time period, meaning that shortening the timescale is likely to reduce the number of statutory consultees that respond. Shortening the timeframe will put additional pressure on a council and its resources and may appear to the public to be undemocratic, undermining community trust in the planning system.

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 it anticipates making a decision? Please give your reasons.

We do not support this proposal. Local authorities already publicise details of applications on their website, so it is unclear what this additional process would achieve other than an additional administrative burden on local authorities.

16. Do you agree that the policy in paragraph 94 of the NPPF should be extended to require local planning authorities to engage proactively to resolve key planning issues of other public service infrastructure projects before applications are submitted? Please give your reasons.

Local authorities already proactively engage in pre-application discussions with applicants where they come forward. We therefore do not see a need to amend national policy.

17.i) Do you have any comments on the other matters set out in this consultation document, including post-permission matters, guidance and planning fees? Please specify.

Notwithstanding our objection to the proposal, the flat rate fee of £234 does not adequately cover the costs to local authorities of processing an application. Therefore, if

the new right did come forward, there must be an appropriate application fee that allows the costs incurred by the local planning authority to be recovered.

ii) Do you have any other suggestions on how these priority public service infrastructure projects should be prioritised within the planning system? Please specify.

In our response to the Planning for the Future White Paper³, CCN submitted a report, prepared by Catriona Riddell, which set out our vision for a strategic planning system that brings both district and county councils together to agree a broad vision for growth and set priorities for infrastructure investment.⁴ We believe this could be a vehicle to agree and prioritise infrastructure projects in a democratically-led, and strategic way.

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? If so, please give your reasons.

It cannot be ruled out that the proposed amendment would have impacts on people who share protected characteristics. We therefore recommend that the Government prepares an impact assessment to understand how the proposed amendment may impact on people who share a protected characteristic before the right goes ahead.

We agree with the LGA that it is important to stress that only a locally-led planning processes with the appropriate amount of time for public consultation will ensure that people with protected characteristics in each area will be able to voice their concerns and identify how this will impact on them.

Consolidating and simplification of existing permitted development rights

19.i) 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? Please give your reasons.

As the consultation document suggests, the review and update of the General Permitted Development Order is a significant and complex exercise requiring consideration . We therefore cannot comment on the merit of the approach that has been outlined.

For a change such as this, we would like to see a much longer consultation period, and much more comprehensive engagement with local authorities so that the impact of these changes can be discussed.

ii) Are there any additional issues that we should consider? Please specify.

Please see above.

³ [CCN response to Planning for the Future White Paper](#)

⁴ Catriona Riddell Associates, [Planning reform and the role of strategic planning](#)

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? Please give your reasons.

We agree with this proposal, for betting shops to change to a use within Class E, with a condition attached. As the LGA point out in their response, a July 2020 Lords Committee report found that "the liberalisation of the regulation of gambling has led to an increased presence of gambling services on the high street." It recommended that local authorities should be given powers to limit the number of new premises. In determining whether the location for gambling premises is appropriate the local authority should have regard to the general character of the locality and the use to which buildings nearby are located. Therefore, the reduction in the number of betting shops would be viewed as a good thing.

However, we believe that once a betting shop has been changed to a use within the Class E, it should not then benefit from the Permitted Development Right to change to residential without planning permission, and this should be written in to the GDPO.

21. Do you agree the broad approach to be applied in respect of category 4 outlined in paragraph 76 of the consultation document? Please give your reasons.

Thoughtful consideration will need to be given to any future consolidation and simplification of existing permitted development rights. It will be crucial that any changes do not inadvertently lead to unintended consequences which could negatively impact on a local area and undermine a councils' ability to support repurposing of high streets and town centres that are fit for the future.

22. Do you have any other comments about the consolidation and simplification of existing permitted development rights? Please specify.

As outlined throughout our response, we believe that a full impact assessment should be undertaken and published by Government to ensure that none of the proposals outlined in this consultation would have adverse impacts on people who share protected characteristics.

We also support the LGA's consultation recommendation that any decisions resulting from this consultation should only be taken forward once the Government formally responds to the Planning White Paper consultation submissions so that they can be considered simultaneously to ensure that decisions are fully joined up and integrated.