



BPF RESPONSE TO DLUHC'S CONSULTATION ON CHANGES TO THE PERMITTED DEVELOPMENT RIGHTS REGIME

CONSULTATION RESPONSE

PREPARED AND SUBMITTED BY

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British Property Federation

1. The British Property Federation (BPF) represents the real estate sector – an industry which contributed more than £116bn to the economy in 2020 and supported more than 2.4 million jobs. We promote the interests of those with a stake in the UK built environment, and our membership comprises a broad range of owners, managers, and developers of real estate as well as those who support them. Their investments help drive the UK's economic success; provide essential infrastructure and create great places where people can live, work, and relax.
2. We welcome the opportunity to respond. As you will see we have several general comments, before turning to the consultation questions.
3. We should stress that many of the questions cover aspects of the built environment that are not directly related to our members, and so we have only answered a proportion of the questions that are most relevant.

General comments

4. We are genuinely torn on the broad issues that this consultation explores. It is good that the Government recognises the contribution that development can make to growth, but we feel that is best planned through a plan-led system, and we look forward to responding to the current consultation on Plan-Making Reforms.
5. Flexibility between uses can sometimes be helpful, but we would rather see that driven at a local level, through policies such as local development orders, that can be more sympathetic to local circumstances.
6. Many of the proposed relaxations in this consultation are extensions of existing thresholds that have not been in operation for long. We would like to see more evidence on the raising of existing thresholds, and the stimulus to activity they have provided, or unintended consequences that have resulted.
7. A general concern we have is that the piecemeal nature of residential conversions can stymie wider regeneration efforts, particularly in town centres. Residential conversions can make land assembly harder. Residents can also be strong objectors to wider regeneration of predominantly commercial areas.
8. As an example, our members have cited Enfield, where PDR has been used to bring forward residential units within a Strategic Industrial Location (SIL). The presence of residential uses has impacted on wider master planning for the SIL.
9. We acknowledge that PDR contributes a small proportion towards housing supply, and can have some benefits, particularly for smaller builders. It should not be seen as a substitute, however, for most housing delivery, which is delivered through local plans.

10. Finally, as the Department knows, there are quality issues that come with widescale PDR use. PDRs do not contribute developer contributions, and therefore provide supporting social and economic infrastructure, an issue that will only be fully addressed should the Infrastructure Levy become operational across the country.
11. And, whilst conversions meet building regulations, and other stipulations can be required via prior approval, they often still involve compromises in terms of design and build.
12. They are also delivering supply that might not meet housing needs. For example, delivering flatted developments, when what might be most needed is family housing.
13. To conclude, the consultation continues with a piecemeal approach, with changes around the edges of the existing PDR regime. We believe policymakers should be considering the extent to which these changes are having an impact on the ability to bring forward larger scale development which would be more likely to deliver more homes at scale. Making it easier to access the PDR regime may conversely be making it harder to bring forward larger schemes, and more cohesive development.

Consultation questions

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

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

Please give your reasons.

b) No

We received feedback from members that the effectiveness of relying on a local design code rather than the prior approval process is ultimately unproven. Members stressed that there is uncertainty around how local authorities will approach the process.

One specific challenge cited was the extent to which a generic local design code can really do as effective a job at scrutinising appearance and achieve the necessary level of detail that the existing prior approval process does.

Other feedback was more positive ultimately arguing local authorities and applicants should wait to see how the process plays out in practice first.

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

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

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

- c) Don't know

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

- a) Double the floorspace that can change use to 3,000 square metres
- b) Remove the limit on the amount of floorspace that can change use
- c) No change
- d) Don't know

Please give your reasons.

- a) Double the floorspace that can change use to 3,000 square metres

We worry about the lack of evidence to support change. We recognise that in the 2020 consultation the Government initially proposed no limit, but then suggested the limit of 1,500 square meters, presumably for good reasons. Some 'learning by doing' may have taken place in terms of the 1,500 limit is constraining and any adverse consequences have not materialised, but if so, the most convincing argument for change would be the evidence.

We urge caution on the basis that quality issues with use of PDR will tend to increase with size. The bigger you go the harder it is to guarantee the quality of living accommodation. For example, can a big department store deliver good quality homes?

It could be argued that proportionality is key. It is not the absolute number in terms of sqm, but its layout. A building of 50,000 sqm for example, can come in various typologies. There is a danger in taking an absolute number and not thinking about the type of building itself. Limits don't really make sense in this way. Some larger buildings will be appropriate others will not.

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

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

Please give your reasons.

- b) No, but see below.

There was a split in our membership on this question. The majority of members supported the continued use of a vacancy test. It stopped the loss of space that was in economically active use and provided a protection to smaller occupiers. Members saw this test being there for a reason.

A minority of members, however, supported abolishing the vacancy test, believing it is an arbitrary step not helping anyone.

In discussion with members, again the point of proportionately was made. Three months for a larger building is not going to make much of a difference, but may impinge on the activities of smaller buildings and developers.

Ultimately, all felt it comes back to the quality of the process in terms of proving it is vacant and perhaps that should be the focus, rather than time stipulations.

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

a) Yes

b) No

c) Don't know

Please give your reasons.

b) No

It is too complicated in these areas where there are lots of other protections to just say these PD rights can apply here.

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

a) Yes

b) No

c) Don't know

Please give your reasons.

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

a) Yes

We think any change in this requirement would be one of the most controversial changes proposed in this consultation document. Conservation areas are generally small and protect the character of what are often small towns, villages, and distinct suburbs. The loss of one or more ground floor commercial uses could have a significant impact on such places. For example, a local baker can drive significant footfall to other commercial activities. We would caution against change in this area. It will deliver little housing, and any cost/benefit assessment we think would be in deficit.

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

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

Please give your reasons.

a) Yes, see below

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

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

Please give your reasons.

If yes, please specify.

We generally support this proposed PD right, which is allowing conversion between what are similar uses.

We would, however, note the potential impact of this right on coastal guesthouses, and therefore the economic activity generated by tourism. This is also a 'busy' area of policy, as Government seeks to clampdown on short lets, and therefore arguably place more reliance on guest houses, etc. We suspect one size will not fit all, and there will certain local authorities that will need to use their article 4 direction powers to protect their local tourism trade and local economy.

We also question whether this PD right is needed? Is a local authority going to turn down a planning application to convert from a hotel to residential? That probably only happens in those local authorities seeking to protect their hotel accommodation for the tourism and economic reasons we have set out.

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

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

Please give your reasons.

b) Remove the limit on the amount of floorspace that can change use

We would generally support easy conversion from what might be regarded as 'anti-social' uses.

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

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

a) Yes

We support the rationale. We would stress, however, that property owners should be able to plan with some certainty and the Government should avoid shifting PD rights too frequently, unless in response to significant social or economic change. It is not too long ago that this PD right was introduced, and we are not convinced there has been significant social or economic change in the meantime. Making a correction, however, is welcome.

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

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

Please give your reasons.

a) Remove the limit on the amount of floorspace that can change use.

Again, we would generally support easy conversion from what might be regarded as 'anti-social' uses.

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

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

a) Yes

This generally makes sense.

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

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

Please give your reasons.

a) Yes

Again, this generally makes sense.

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

a) Yes

b) No

c) Don't know

Please give your reasons.

a) Yes

As said, we are generally uncomfortable with extending PDRs in these areas, which can have significant impact. However, we also generally support the easy conversion of what might be regarded as 'anti-social' uses to other uses, and the second should overrule the first in these circumstances.

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

a) Yes

b) No

c) Don't know

Please give your reasons.

a) Yes

As said, we are generally uncomfortable with extending PDRs in these areas, which can have significant impact. However, we also generally support the easy conversion of what might be regarded as 'anti-social' uses to other uses, and the second should overrule the first in these circumstances.

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

a) Yes

b) No

c) Don't know

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

Yes, and please see our introductory remarks.

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

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

If so, please give your reasons.

Yes, and please see our introductory remarks.

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

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

Please give your reasons.

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

- a) Yes

For us the compatibility of uses is key. For example, if you are providing a residential unit above say, dental premises, that may not work for the residential use, because of the noise. What goes on below and what goes on above is important. Noise is however, already considered as part of the process.

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

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

Please give your reasons.

- a) Yes

We support this. In the general loosening of PDRs over the past few years, this restriction now looks grossly out of place and out of date.

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

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

Please give your reasons.

- a) Yes

It makes sense to align, as the consultation paper explains.

Q.25 Do you agree that the smaller and larger home size limits within the agricultural buildings to dwellinghouses right (Class Q of Part 3) should be replaced with a single maximum floorspace limit of either:

- a) 100 square metres per dwellinghouse
- b) 150 square metres per dwellinghouse
- c) No change
- d) Don't know

b) 150 square metres per dwellinghouse

Allowing for smaller units should enhance affordability, which is becoming a critical issue in rural areas.

Q.27 Do you agree that the 5 home limit within the agricultural buildings to dwellinghouses right (Class Q of Part 3) should be increased to allow up to a total of 10 homes to be delivered within an agricultural unit?

- a) Yes

This should help add homes, and therefore make some inroads to tackle a housing shortage in several rural areas.

Q.28 Do you agree that the permitted development right for the change of use from agricultural buildings to residential use (Class Q of Part 3) should be amended to allow for an extension to be erected as part of the change of use on previously developed land?

- a) Yes.

This is in line with householder permitted development rights.

Q.29 Do you agree that a prior approval be introduced, allowing for the consideration of the impacts of an extension on the amenity of neighbouring premises, including overlooking, privacy, and light?

- b) No

It is difficult to understand why this PDR would be singled out for such special treatment, particularly as there are existing prior approvals on noise and design.

Q.30 Do you agree that buildings should have an existing floorspace of at least 37 square metres to benefit from the right?

- a) Yes

We agree such dwellings should follow national space standards.

Q.35 Do you agree that the right be amended to apply to agricultural buildings that are no longer part of an agricultural unit? 22.

a) Yes.

If buildings are redundant to the agricultural operation, their re-use should be encouraged.

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

a) Yes

b) No

c) Don't know

Please give your reasons.

a) Yes

This was broadly welcomed. We received feedback from members that the existing PDR is not widely used, and it may capture more buildings by expanding it.

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

a) Yes

b) No

c) Don't know

Please give your reasons.

a) Yes

Again, this was broadly welcomed. Its relevance to our membership is limited, given most of our members are developing industrial premises at scale. However, this will provide support to smaller industrial operators who own their own premises, and for whom it is quite a costly process to extend.

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

a) Yes

b) No

c) Don't know

Please give your reasons.

a) Yes

For the same reasons as set out in response to Q58.

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

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

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

b) A different number of days per calendar year.

We received feedback from members that the longer markets can operate under this PD right the better. Our members make use of this right across their urban mixed-use schemes. The right takes a lot of time and cost to set up, which perhaps justifies a longer period for it in operation. Any timescale we suggest will be arbitrary, but doubling the limit to 56 days, may better reflect the effort, whilst still maintaining the intended temporariness of the right.