



RTPI

mediation of space · making of place

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Permitted Development
Communities and Local Government
Floor 1, Zone A1
Eland House
Bressenden Place
London SW1E 5DU

Email response sent to: permitted.development@communities.gsi.gov.uk

Dear Sir/Madam,

RESPONSE TO THE CLG CONSULTATION ON IMPROVING PERMITTED DEVELOPMENT

Thank you for the opportunity to respond to the above consultation. The Royal Town Planning Institute (RTPI) is a membership organisation representing over 22,000 spatial planners. It exists to advance the science and art of town planning for the benefit of the public.

The response has been formed drawing together internal consultations and the results of meetings and discussions with members through the RTPI's Development Management Network and its National Association for Planning Enforcement.

The RTPI supports the aim of reducing the number of minor applications for commercial and non domestic developments in line with the recommendations of the Killian Pretty review but are not convinced that the recommended changes to permitted development will have a significant effect on reducing the number of planning applications nor reducing the burden on applicants particularly small businesses.

Moreover, it is considered that any reduction in formal applications for planning permission will be mirrored by a proportional increase in enforcement related requests for service and applications for Certificates of Lawfulness to establish the planning position.

This will result in the shifting of focus of local authority planning staff from the processing of planning applications to dealing with more pre- application informal enquiries as well as generating more enforcement enquiries.

Whilst the aim of the improvements to permitted development for minor non domestic developments is laudable the process appears complicated and imprecise in its definitions and application. This will lead to more uncertainty and confusion leaving the interpretation open to challenges.

It is considered that the changes must be founded upon sound and good definitions which currently it is not. The changes, as set out, would appear to make the system more complicated not less which is at odds with the aim of reducing bureaucracy for minor developments by businesses and educational establishments.

This factor is made more complex and problematic by the introduction of a new mix of prior approval procedures and requirements. It is considered to be unhelpful and ill reasoned to bring in another layer of planning control. This can only fuel the inconsistent messages being sent out to small businesses concerning the simplification of the planning system and the perpetuation of the bureaucracy involved.

The requirements for any additional layers for prior approval should be dropped so as to demystify the planning position and simplify the planning process to reflect the aims of the permitted development changes advocated in the Killian Pretty Review.

Responses to the consultation questions are set out below and include both issues and suggested answers and clarification on improving permitted development.

If you require any further assistance, please contact Rhian Brimble, Development Management Network Manager on 0207 929 9494 or email rhian.brimble@rtpi.org.uk.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Matt Thomson', with a long horizontal flourish extending to the right.

Matt Thomson
Acting Head of Policy and Partnerships

Enc.

Part 42 Shops

Q1: What are your comments on the proposals for shops?

The policy of promoting development for retail and town centre uses is supported. However, it is difficult to relate how the proposed permitted development criteria would benefit small retail stores especially if rear access roads were classed as highways. In this respect the proposed rights would appear to be of more relevance to larger stores and retail parks. This is highlighted by drawing attention to the proposed right to create trolley stores.

Concerning:

Class A.1

(a) There is no reference to what constitutes the original building when outlining what is permissible.

"Whichever is the greater" would qualify 25% or 50 sq. m.

(c) The 5 metre height does not seem to take into account accommodation above retail units occupying ground floor space only nor residential properties immediately adjacent to a retail unit.

(e) A 5 metre building within 2 metres of a boundary seems excessive particularly in the example given at (c).

(f) The limitation to exemption for listed buildings only is artificially unbalanced and is inconsistent with other permitted development rights exemptions which refer to Article 5. (1) land and World Heritage Sites. The proposals throughout should have equal application and reflect instantly recognizable definitive reference to this as in previous permitted development orders.

The impact on Conservation Areas and other protected areas has not been considered. Ill-thought extensions, even on the rear of shops can have a cumulative adverse visual impact on the area.

(h) The impact on parking does not seem to have been fully taken into account. There would seem to be no reason why the prospective developer of the shop unit could not remove parking areas or alter manoeuvring facilities in advance of any building extension.

The general view is held that there is ambiguity with the definition of the term "similar" in addition to the lack of definition as to what constitutes "original" in A.2. Further, it is considered that "when viewed from the outside" is otiose.

A further general comment is the introduction of the judgement to assess whether any particular development proposed within the Class "would affect a listed building or its setting". Who is making this judgement? It cannot be presupposed that the prospective developer either has or will or is indeed capable of weighing up the affect on a listed building which may be obliquely opposite the development site.

Nor does it seem that regard has been paid to the impact on landscaping and/or car/vehicle parking on site, the displacement of which could diminish the visual amenities of the setting and lead to more on-street parking and deliveries.

The rights do not appear to take into account intensification of use of the premises, particularly the accepted bad neighbour uses like hot food takeaways as well as their proximity to residential properties and the associated concerns relating to noise and smells. The affect on the setting of a listed building may not just be limited to the visual affect but also the aural and odorous affects.

It is further not clear how these rights sit comfortably with developments which have pre-existing planning permissions containing restrictive conditions. Which takes priority – the general permission granted by the

order or the particular extant permission?

Class B

On the question of trolley stores these should not be permissible to the front of the retail store unless more than 20 metres from the public highway otherwise they will impose upon the shop frontage. It is conceivable that, as drafted, a town centre shop with an apron of land adjoining the public highway could fill this with a trolley store.

There is no reference to whether a trolley store can have a roof or is a roofed building.

Interpretation of Class B inadvertently cites "communal parking area".

Class C

C.1.

As referred to above the application of rights needs to be applied justifiably and fairly across Article 5 (1) land and World Heritage Sites.

It is considered fundamentally wrong to introduce a prior approval procedure for the reasons set out above and as a further variant to existing prior approval procedures. This is unduly bureaucratic. Further, the information, details and drawings necessary to determine such an application are comparable to those required when seeking full planning permission.

The view is held that the development benefits from a general permission granted or not. This intermediate tier of development consent does not reflect the aim of simplifying the planning system and does nothing to improve and streamline the system.

It also appears to be an anomaly to require details of the siting of a shop front to be submitted.

Part 41 Office Buildings

Q2: What are your comments on the proposals for offices?

The observations made above in respect of shops equally apply to Class A (a) to (f) of the office buildings permitted development as do the observations concerning the Condition in A.2 and the interpretation of the Class.

There is a further comment relating to A.1 (d) in respect of the phrase; "the extension or alteration would be visible from a highway". Again there are concerns about what is not visible from a highway? Is this an adjacent highway or any highway some distance away where the topography is undulating and not just flat? Further, why is the visual impact not important in any circumstance, not just that relating to a highway? This is an important aspect especially for offices in townscape situations.

Part 32 Schools, Colleges, Universities or Hospitals

Q3: What are your comments on the proposals for institutions?

Class A

There is general support for permitted development improvements for this range of institutions. However, it is felt that the broad application of permitted development is based on institutions occupying substantial grounds which is not easily transferable to small rural primary schools for instance, which invariably comprise a main building and a collection of temporary classrooms, or to small rural cottage hospitals where 50% of site

coverage would have quite an impact.

It is considered that it should be a condition that development is not permitted if it affects trees on the site. This would be equally important to protect modern institutions with green space quadrangles from being permitted development

The general observations concerning; definition of "original building", Article 5 (1) land, the need to qualify condition A.2 with "view from the outside", and "similar" appearance made above equally apply to this Part.

It is considered particularly important to define the "original" building as hospitals and schools have historically been the subject of organic growth over the years.

The proposals do not address a common feature with spread out buildings on a campus or hospital grounds of that of an extension joining two buildings by say, a covered walkway. Is this still two buildings or one?

Class B

The conditions relating to the provision of a hard surface would appear to encourage the developer to surface with impervious material on the basis that the ground is deemed to be considered likely to result in a risk to groundwater contamination. This is open to interpretation and challenges potential leading to more planning, enforcement, contaminated land officer and Environment Agency enquiries. It is considered that an assessment by the Environment Agency or contaminated land officer would be necessary to certify that impervious hard surfacing is permissible otherwise this thinking to allow hard surfacing counteracts flooding and surface water run off policies.

Q4: What are your comments on the proposals for schools?

As set out in Part 32 above.

Further, it is not clear whether that the rights relate to one new building per site or one new building per existing building on site. If it is the latter then this could result in a 100% increase in floorspace on the site which will have a significant impact particularly for small rural schools.

Part 8 Industrial and Warehouse Development

Q5: What are your comments on the proposals for industry and warehousing?

The rights, as drafted, with the allowances for development permissible close to boundaries would have adverse impact on industrial development neighbouring residential properties. This would be particularly so in established industrial estates within residential districts and communities. Further, in addition to the general effect on the residential amenities of occupiers of adjacent residential properties, the construction of such buildings could lead to problems of overshadowing, obstruction to CCTV line of site for security as well as potentially affecting wind channels around the site.

Again, the general comments made above concerning consistency of the application of the rights are relevant; i.e. Article 5(1) land is expressly quoted under this Part as it should be throughout the permitted development changes. "Per building" is not clear and is open to interpretation. It is suggested that it should be made clear that it is limited to one new building per site.

Q's 6, 7 and 8: Should permitted development be expanded to include air conditioning units? What impact do you think expanding p.d. rights would have? Do you agree with the limitations?

The RTPI is firmly of the view that air conditioning units should not be permitted development. As the consultation rightly points out tackling climate change is a key priority for the planning system as endorsed by Government policy and the over-arching plan for sustainable development. The use of air conditioning units should not be positively encouraged by consenting to their proliferation.

There is a need to promote partnerships with commerce to undertake greater corporate responsibilities to tackle climate change. There should be a balanced approach to the subject. This is not considered to be the right approach or answer to the issue. This p.d. measure will only result in greater impact on climate change

In detail, the under Part 2 Class D

D.1 (c)

The introduction of a noise decibel reading into permitted development is a shift in the role of planning enforcement and will result in the introduction of regulatory cross-over with environmental health officers to ensure compliance. As problematic as this may be in practice and formal enforcement the level of 40dB exceeds WHO guidelines, BS4142 1997, and runs counter to EU directives. In consequence if this right is maintained then there is potential conflict with current standards and best practice which is likely to result in claims of statutory nuisance.

D.1 (d)

The issues raised above relating to affecting a listed building or their settings equally apply to this limitation. Nonetheless this Class also introduces a further uncertainty as to the interpretation of the affect on a listed building or its setting. Is it to be assumed that the perception of visual affect is the only sensory affect to be taken into account or is it that the introduction of a decibel limitation also brings in to play aural affects?

As before there should be consistent reference to Article 5 (1) land.

With reference to Class C under Part 2 – Minor Operations – The painting of the exterior of any building or work, this should be qualified to exclude listed buildings in the interests of clarity and for the avoidance of doubt.

Q9: What are your views on the proposed prior approval regime?

The RTPI does not agree with the continuation of a prior approval regime. This is an artificial arrangement which does nothing to simplify the planning system or make it more responsive and accessible to members of the public. The planning system should identify clearly what development is permissible under a general permission or not and needs a full specific planning permission. This is a bureaucratic layer that is a divergence from the Killian Pretty review.

The main purpose of improving permitted development is to ease the burden on businesses and institutions from falling within the planning process for minor development works. The other aim is to release local authority planners from dealing with relatively minor planning applications. The intermediate tier created by prior approval applications does not achieve these objectives but process such a submission is equivalent to that seeking full planning permission. A prior approval regime goes against evolved administrations.

Q10: What are your comments on the proposals for shopfronts?

This has already been set out in answers to questions 1 and 9 above. Further, modern development is designed carefully to ensure architectural unity and to ensure that security is maintained whilst presenting an open aspect. This approach does not facilitate or encourage the aims of good design and safety measures.

Q11: What are your comments on the proposals for ATMs?

The view on the prior approval regime has already been set out in answer to question 9 above. Agree that ATMs can be considered to be permitted development outside Article 5 (1) land. Agree that consultation with the police in producing local supplementary guidance. However, there is concern that in the absence of a full planning application that supplementary design advice would hold little if any weight and be of limited consideration in a prior approval request. This would not overcome concerns, perceived or otherwise, about crime and public safety.

Qs12 and 13: Hard surfacing

This is seen as being a difficult subject area to enforce as previously commented above. Only permeable surfacing should be permissible and if in doubt then the E.A. and contaminated land officer should be consulted for advice in accordance with good practice, and the latest published advice on the different materials and construction methods available.

This right would also result in the loss of landscaped areas which were often designed as integral parts of a development.

Again, no consideration given to Article 5 (1) land and World Heritage Sites.

Qs14-18: Article 4 directions

The proposed changes to the Article 4 directions are supported and agreed. It is considered that this might lead to more Article 4 directions being put in place over time. The changes are nevertheless an improvement. This will mean that there will be a need to review Article 4 areas which, for the most part, they currently are not.

Qs19 and 20: Consultation

The impact assessment captures the areas under review but these are detailed proposals of which it will be difficult to assess the savings.

The removal of a large number of planning applications is likely to be substituted and result in the materialisation of a significant increase in prior approval applications.

This will inevitably translate into an increase in requests for service in planning enforcement and compliance to verify whether the work conforms to the new permitted development rights.