

RTPI response to MHCLG Technical consultation on consequential changes to permitted development rights

About the RTPI

The RTPI champions the power of planning in creating sustainable, prosperous places and vibrant communities. As a learned society, we use our expertise and research to bring evidence and thought leadership to shape planning policies and thinking. As a professional body, we have over 25,000 members across all sectors, and are responsible for setting formal standards for planning practice and education.

This is the RTPI's response to the Ministry of Housing, Communities and Local Government [Technical consultation on consequential changes to permitted development rights](#).

General comments

Permitted Development (PD) rights: The RTPI wrote a joint letter¹ expressing our concerns with the expansion of PD rights with the Royal Institute of British Architects (RIBA), Chartered Institute of Building (CIOB) and Royal Institution of Chartered Surveyors (RICS) to the Prime Minister in April 2021. This letter emphasised that without the usual checks and balances through the normal planning process and without the facility for local communities to comment on proposals, this risks creating poor-quality housing.

Mixing commercial, business and service uses with residential uses could create attractive developments and assist economic viability. However, it will be important that the various uses are compatible and the introduction of residential into business areas or business into residential areas does not create unsustainable living and working conditions and space. Inappropriate noise and disturbance particularly outside normal working hours or at weekends or holidays should also be avoided.

Prior Approval matters: This consultation includes a range of proposed consequential changes, which would benefit from having additional matters included for prior approval assessment. However, this should be matched with the required resourcing for Local Planning Authorities (LPAs) and therefore an appropriate fee attached to cover costs.

Local Plan led system: We are concerned that the proposed consequential changes in this consultation will replace or overrule democratically engaged, developed, and adopted planning policy and development management.

¹ RTPI, RIBA, CIOB, RICS (2021) [Joint Institutes letter to the Prime Minister](#)

Minor technical changes

Q1. Do you have any comments on the proposed minor technical changes?

No, these appear to be sensible.

More significant changes: The Commercial, Business and Service use class

Part 3, Class A: restaurants, cafes, or takeaways to retail

Q 2(a) Do you agree that there should be single Part 3 right to allow the change of use from: (m) casino (Classes C, K (part), (n) betting office (Classes C, E, F J (part), JA) (o) pay day loan shop (Classes C, E, F, J (part), JA) (r) hot food takeaway (Class A) to the Commercial Business and Service use class?

No, see our answer to Q2b.

Q 2(b) If there is agreed to be a single right, do you agree that this single right should not be subject to any limitations, such as a size limit, or exclusions for listed buildings etc?

No.

Listed Buildings should be excluded from the right. This is important to protect the historic environment, historic buildings and their character, appearance, design and materials in high streets and other sensitive locations such as a Site of Special Scientific Interest.

The size of the establishment or building affected by the proposed changes is also a relevant matter, particularly in smaller centres and the proposed changes should include statutory limits in respect of size.

Several prior approval matters should also be added that allow the LPA to assess any transport and highways or noise impacts. An assessment should also be made on whether any changes of use would reduce the range of essential services available in a locality.

Q 2(c) If there is agreed to be a single right, do you agree that this single right should not be subject to conditions, such as matters for prior approval in respect of restaurants or other uses?

No.

Q 2(d) Given the flexibility to move within the use Commercial, Business and Service use class, do you agree that any single consolidated right should not provide an exclusion in respect of offices in article 2 (3) land?

No answer provided.

Part 3, Class G retail or betting office or pay day loan shop to mixed use.

Q3. Do you agree that the existing Class G right of Part 3 should be broadened to allow for up to 2 flats above (mixed use) any premises in the Commercial, Business and Service use class?

Yes, however as we noted in our previous consultation response on supporting housing delivery and public service infrastructure², additional matters that should be included for prior approval assessment include the levels of access to essential services and amenities such as parks for outdoor fitness and exercise and whether there is adequate ventilation with opportunities to provide fresh air through ventilation.

Part 3, Class H mixed use to retail.

Q4. Do you agree that the Class H right of Part 3 be amended to allow change of use from 2 flats mixed use with Commercial, Business Service use to Commercial, Business Service use?

No answer provided.

Part 3, Class I industrial and general business conversions.

Q5. Do you agree that the Class I right of Part 3 for the change of use from industrial, or storage and distribution, to light industrial use is withdrawn?

Yes.

We are encouraged that this proposal goes some way towards addressing the loophole we identified in our response to a recent consultation on supporting housing delivery and public service infrastructure³. The issue for us was that general industry or warehousing could be changed to light industrial, which could then be converted to housing use. Factories and warehouses (especially warehouses) are often located in suitable locations for logistics but unsustainable locations for housing and will do little to support transport decarbonisation, for example if people must travel from out of town locations to reach amenities.

Part 3, Class J retail or betting office or pay day loan shop to assembly and leisure.

Q 6(a) Do you agree that permitted development rights are amended to no longer allow the change of use to uses from the former D2 Assembly and leisure use class?

Yes.

Q 6(b) Do you agree that the Class J Part 3 right that provides for the change of use of retail uses, betting office or pay day loan shop to the former D2 assembly and leisure use class is withdrawn?

Yes.

² RTPI (2021) [RTPI response to MHCLG Supporting housing delivery and public service infrastructure consultation](#)

³ RTPI (2021) [RTPI response to MHCLG Supporting housing delivery and public service infrastructure consultation](#) see Q.5

Part 3, Class K casinos to assembly and leisure

Q7. Do you agree that the Class K Part 3 right that provides for the change of use of casinos to the former D2 assembly and leisure use class is withdrawn?

Yes.

Q 8(a) Do you agree that the Class M right of Part 3 be amended to continue to allow the change of use from a hot food takeaway, betting office, pay day loan shop, or launderette to residential C3 use?

No answer provided.

Q 8(b) Do you agree that the Class M right of Part 3 should allow for prior approval on the adequate provision of local services as a launderette?

Yes.

However, we recommend adding a broader range of local services for assessment under prior approval matters in addition to laundrettes. This should include assessing the adequate provision of other essential services such as convenience stores, pharmacies, and post offices.

Part 3, Class R agricultural buildings to a flexible commercial use

Q 9(a) Do you agree that the Class R right of Part 3 should be amended to expand the flexible use of agricultural buildings to include the Commercial Business and service use class?

No.

We are concerned that this could lead to unrestricted housing being created in rural areas in inappropriate buildings and locations. If the government does proceed with this right, it is essential that this use cannot subsequently then be converted to residential.

Q 9(b) Do you agree that the Class R right of Part 3 should be amended to no longer allow the flexible use of agricultural buildings for those uses within the former D2 assembly and leisure use class?

Yes.

Part 3, Class S agricultural buildings to state-funded school or registered nursery.

Q10. Do you agree that the Class S right of Part 3 is amended to allow only for the change of use of an agricultural building to a state funded school?

No.

Changes of use from agriculture to state run schools or nurseries depends upon the location and such decisions should be made by LPAs. We recommend that if Government does pursue this, that they clarify how "state funded school" is defined, to assist Local Authorities in operating this system

Part 3, Class T business, hotels etc to state-funded schools or registered nursery.

Q 11(a) Do you agree that the Class T right of Part 3 is amended to allow the change of use to a state funded school, and no longer allow the change of use to a registered nursery?

No.

We recommend that new state funded schools should require planning permission. The design and environment of schools is important for satisfactory learning and recreation environment and this should not be a permitted development right.

Q 11(b) Do you agree that the Class T right of Part 3 be amended to additionally allow for the change of use from the Commercial, Business and Service use class to a state funded school?

No answer provided.

Q 11(c) Do you agree that the Class T right of Part 3 be amended to no longer allow for the change of use from uses in the former D2 assembly and leisure use classes, such as cinemas and live music venues, and from the F2 use class?

No answer provided.

Part 4, Class C use as a state-funded school for 2 academic years.

Q 12(a) Do you agree that the Class C right of Part 4 be amended to no longer allow for the change of use from uses now within the Local Community (F2) use class?

No answer provided.

Q 12(b) Do you agree that the permitted development right is amended to no longer allow the change of use from uses within the former D2 Assembly and leisure use class?

No answer provided.

Part 4, Class CA provision of a temporary state-funded school on previously vacant commercial land.

Q13(a) Do you agree that the Class CA right of Part 4 be amended to additionally allow for the change of use from vacant land within the Commercial, Business and Service use class?

No.

We recommend that new state funded schools should require planning permission. The design and environment of schools is important for satisfactory learning and recreation environment and this should not be a permitted development right.

Q 13(b) Do you agree that the Class CA right of Part 4 be amended to no longer allow for the change of use from vacant land uses in the former D2 assembly and leisure use classes, such as cinemas and live music venues, and in the Local Community F2 use class?

No answer provided.

Part 4, Class D shops, financial, cafes, takeaways etc to temporary flexible use.

Q14. Do you agree that the Class D right of Part 4 is amended to allow the temporary change of use? From: the Commercial, Business and Service use class (E), and specified article 3 (6) uses: hot food takeaway (r), betting office (n) and pay day loan shop (o) To: Another Commercial, Business and Service use class (E) use, or specified F1 Learning and non-residential institutions uses: display of art (b), museum (c), public library (d), public hall or exhibition hall (e)

No.

Decisions on temporary uses and buildings should be made by the LPA.

Part 7, Class A extensions etc of shops or financial or professional premises

Q 15(a) Do you agree that a single Part 7 right, merging Classes A and F, allow for the extension or alteration of buildings in the Commercial Business and Service use class?

No.

Extensions and alterations to non-domestic buildings depends upon the nature of the activity taking place within the building and its impact on the locality. In most cases normal planning policies should apply.

Q 15(b) Where a single right is introduced, do you further agree that the Part 7 right allow for ground floor extensions only: no higher than 4 metres, or within 2 metres of boundary?

Yes.

If the single right is introduced, (which we recommend against), limitations such as these appear sensible.

Part 7, Class E hard surfaces for shops, catering or financial or professional premises.

Q 16(a) Do you agree that a single Part 7 right merges Classes E and G, and which is broadened to allow for hard surfaces for premises in the Commercial Business and Service use class?

No.

Hard surfaces should be subject to normal planning policies and rules to avoid inappropriate activities with potentially detrimental impacts on the appearance of the site and locality and climate change and surface water management matters.

Q 16(b) Do you agree that the single Part 7 right also allow for hard surfaces for a public house, wine bar or other drinking establishments, drinking establishment with expanded food provision, and hot food takeaways listed in article 3 (6)?

No.

Hard surfaces should be subject to normal planning policies and rules to avoid inappropriate activities with potentially detrimental impacts on the appearance of the site and locality and climate change and surface water management matters.

Further Comments

Q17. Do you have any further comments you wish to make?

No answer provided.

Public Sector Equality Duty Assessment and impact assessment

Q18. Do you think that any of the proposed changes could impact on:

- a) businesses
- b) local planning authorities
- c) communities

We are concerned about a range of possible unintended consequences from this proposal.

Should residential conversions take place on a large scale affecting a high street, we are concerned at the potential loss of active frontages and the benefits they provide through informal surveillance and enhancements to the vitality and safety of an area. We further question the possible negative impacts on physical activity with gyms, swimming pools and sports and leisure facilities included within Class E and therefore at risk of being lost to residential conversion under the right.

Q19. Do you think that any of the proposed changes could give rise to any impacts on people who share a protected characteristic? (Age; Disability; Gender Reassignment; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation)

We note the commitment to prepare a public Sector Equality Duty Assessment and an impact assessment prior to any secondary legislation being laid. This is an essential step to allow the necessary rigorous analysis to be undertaken on how the proposals in this consultation would affect those with a protected characteristic.