



By email to:

PublicServiceInfrastructure&PermittedDevelopmentConsultation@communities.gov.uk

28th January 2021

Dear Sir/Madam,

Response to Supporting housing delivery and public service infrastructure consultation

We have a number of significant concerns about these proposals.

New permitted development right to change use from Commercial, Business and Service (Class E) to residential (C3)

Harlow Civic Society is acutely aware of the challenges facing our Town Centre, our neighbourhood centres and employment areas, but we question claims that these proposals will breathe new life into these locations. We believe that further deregulation of planning through permitted development will prevent the proactive and positive management that our town desperately needs. In particular, based on our local experience of existing permitted development rights, we are concerned that the proposals to widen permitted development are likely to:

- Be harmful to the diversity of our town centre and neighbourhood centres
- Enable the creation of poor-quality homes and living environments with poor access to local facilities
- Result in the loss of employment space needed to expand local jobs
- Lead to the loss of character, in particular within our conservation areas, through inappropriate development and unsympathetic alterations.

For these reasons Harlow Civic Society strongly objects to this policy.

New public service application process

We also strongly object to the proposed reduction in the statutory public consultation period for major public service infrastructure development to 14 days. Whilst an efficient and effective process is important to deliver critical infrastructure, we do not believe reducing the consultation period to 2 weeks is the right way to achieve this.

We welcome greater emphasis on pre-application engagement in the consultation. However, this is guidance, and our experience is that effective pre-application engagement with communities is limited. We cannot support the change to the statutory consultation period unless there are explicit standards for effective, genuine, and meaningful engagement with the local community on major developments.

Our response to the consultation questions follows.

Yours faithfully,

AJ Evans
Treasurer
On behalf of Harlow Civic Society

Email: contact@harlowcivicsociety.org.uk

Harlow Civic Society response to consultations on

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

Q1 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)?

Agree	
Disagree	X
Don't know	

Please give your reasons:

We object to this change to permitted development (PD) rights in principle. See answer to question 5 below.

Q2.1 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?

Agree	X
Disagree	
Don't know	

Please give your reasons:

Yes. It should also **not** apply to Conservation Areas.

Q2.2 Do you agree that the right should apply in conservation areas?

Agree	
Disagree	X
Don't know	

Please give your reasons:

No. We cannot support the proposed change to allow properties in Class E use within conservation areas, to change use to housing (C3 use) without the need for a planning application. Conservation areas have been designated locally because they are "areas of special architectural or historic interest, the character and appearance of which it is desirable to preserve or enhance" We are concerned that widening the current permitted development rights

in conservation areas to allow such changes of use could undermine current protections and threaten the 'special interest' and character and appearance of conservation areas.

We strongly believe that any changes in conservation areas should come through a process of managed change, considered through the standard planning application process, not through permitted development.

Q2.3 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?

Agree	
Disagree	X
Don't know	

Please give your reasons:

If this permitted development right is implemented by the government, prior approval of the impact of the loss of ground floor use to residential and 'active frontage' should be required in all cases, not just in conservation areas.

We consider that issues in our retail and commercial areas need to be tackled through a process of managed change, finding positive solutions to support the diversification and viability of these areas.

As such, we consider the impact of loss of ground floor use to residential should be required for all prior approval applications, if the new PD right is introduced, to allow local planning authorities to consider the impact and to prevent piecemeal opportunistic conversions throughout our town. This could be damaging and lead to fragmented town centre, neighbourhood centres and employment areas. A wholesale review of these areas is the appropriate way of managing any changes.

Q3.1 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?

Agree	
Disagree	X
Don't know	

Please give your reasons:

No. We recognise that there are responsible land and property owners and developers. However, the danger with deregulation of the planning system through widening permitted development rights is that it enables and can often lead to those less responsible and unscrupulous land and property owners and developers exploiting loopholes. We have evidence of this locally through the previous widening of PD rights allowing office to residential conversions.

In Harlow, there have been more than 1,100 residential units created from office conversions. These have mainly been of poor quality with limited space with many having poor and limited access to local facilities. They have been described by our MP, Robert Halfon, as 'an unmitigated disaster for our town' (Hansard 13 February 2020). This has been borne out by the Government's own commissioned report, 'Research into the quality standard of homes delivered through change of use permitted development rights' (2020), which concluded that permitted

development rights create 'worse quality residential environments'. The risk is that this new PD right if introduced would go wider than the office to residential conversions, enabling a much greater range of uses to change and the impacts are likely to be greater.

It is impossible to legislate for every circumstance. We consider a limited list of prior approval matters are very unlikely to secure a high-quality residential environment for the occupants or create the vibrant, diverse and planned centres our community wants. For this reason, we cannot support this policy.

Q3.2 Are there any other planning matters that should be considered?

Yes	X
No	
Don't know	

Please specify:

Harlow Civic Society objects to the proposed policy. However, if the Government intends to implement the proposed new PD right, we consider the following prior approval matters should also be included:

- Impact of the loss of ground floor use and 'active frontage' to residential.
- Residential amenity of future occupiers of the property and neighbouring properties. We acknowledge that the proposed prior approval matters include, noise, natural light and fire safety but suggest this goes further to include: outlook from windows for habitable rooms not just light; privacy and overlooking; and external amenity space.
- Design of any changes to the external appearance of the building.
- Servicing to include provision of storage for waste, recycling, and bikes.
- Local facilities, such as shops, schools and medical services within a reasonable walking distance.

We support the proposal in Para. 13 that all homes would be required to meet the nationally described space standards, and this must be a prior approval matter. We would prefer to see the nationally described space standards set within Building Regulations as a requirement for all new housing. We are also of the view that the minimum standards should be extended and improved (as set out, for example, in the TCPA Healthy Homes Act) and note they are less generous than that applied at earlier times in Harlow's development.

Q4.1 Do you agree that the proposed new permitted development right to change use from Commercial, Business and Service (Class E) to residential (C3) should attract a fee per dwelling house?

Agree	X
Disagree	
Don't know	

Please give your reasons:

Yes. The prior approval process would still add administrative cost to the local authority.

Q4.2 If you agree there should be a fee per dwelling house, should this be set at £96 per dwellinghouse?

Yes	
No	X
Don't know	

Please give your reasons:

Although this is the same as the existing fee for prior approval applications, we believe it is low compared to the cost of processing, and therefore, should be increased significantly.

Moreover, developers make no contribution to infrastructure such as schools, new road crossings and health centres and this should be addressed for developments under permitted rights as set out in the 'Planning for the Future' proposals.

Q5 Do you have any other comments on the proposed right for the change of use from Commercial, Business and Service use class to residential?

Yes	X
No	

Please specify:

Harlow Civic Society strongly objects to the proposal in principle because of the harm that it could do to our town and neighbourhood centres, as well as the loss of employment space; the creation of poor-quality homes in inappropriate locations; and the loss of character of our conservation areas.

Harm to town and neighbourhood centres and the loss of employment space

We accept that our town and neighbourhood centres are currently facing acute challenges and they will inevitably need to adjust and, in some cases, contract in response to changes in shopping and leisure habits. However, we believe this needs to be done in a planned manner by the local community through our local planning policies, not by allowing the market to decide in a random and potentially counterproductive manner. It is certainly desirable to bring more residential use into town centres, and we have supported this in appropriate cases. But in areas where residential values often outweigh the value of other uses there is a danger that this change could permanently destroy the essential local function of our town and neighbourhood centres, at a time when 'shopping local' has become increasingly important.

We are acutely aware of the challenges facing the retail sector and the need to find positive solutions to tackle fundamental problems. However, we question claims that these proposals will breathe new life into our centres. It is likely to simply enable change of use to more profitable uses, often residential, rather than enabling a greater range of uses to diversify and support our town and neighbourhood centres. We are particularly concerned that the proposed widening of PD rights will lead to opportunistic conversions rather than a planned approach to diversification, leading to fragmentation of our centres and employment areas.

We have seen many office to residential conversions under PD rights in industrial areas. Not only have these resulted in poor quality homes in inappropriate locations, but employment space is lost which local policies are aiming to use to encourage new high quality local jobs.

The changes to permitted development rights proposed in this consultation would prevent local planning authorities from planning positively and creatively to facilitate change and adaptation of town and neighbourhood centres and employment locations. In Harlow, plans have been developed for the regeneration of our town centre, which are unlikely to be fulfilled with the proposed extension to PD rights. More masterplans and area action plans to proactively manage key changes to our town are needed, not less. We fail to see how this would be possible if the proposed PD right is implemented by Government.

Poor quality homes

We recognise that there are responsible land and property owners and developers. However, the danger with deregulation of the planning system through widening permitted development rights is that it enables and can often lead to those less responsible and unscrupulous land and property owners and developers exploiting loopholes.

In Harlow, there have been more than 1,100 residential units created from office conversions. These have mainly been of poor quality with limited space with many having poor and limited access to local facilities. They have been described by our MP, Robert Halfon, as ‘an unmitigated disaster for our town’ (Hansard 13 February 2020). This has been borne out by the Government’s own commissioned report, ‘Research into the quality standard of homes delivered through change of use permitted development rights’ (2020), which concluded that permitted development rights create ‘worse quality residential environments’. The risk is that this new PD right if introduced would go wider than the office to residential conversions, enabling a much greater range of uses to change and the impacts are likely to be greater.

It is impossible to legislate for every circumstance. We consider that the limited list of prior approval matters set out in Para. 21 will not guarantee a high-quality residential environment for the occupants and therefore, such changes of use should be considered through the standard planning application route rather than prior approval.

We should be improving standards through the planning system, not encouraging lower standards through poor quality conversions through permitted development. Harlow Civic Society supports the TCPA campaign for a Healthy Homes Act:

<https://www.tcpa.org.uk/healthy-homes-act>. This is aiming to get legislation enacted to ensure that all homes and places fulfil minimum standards across a wide range of criteria. These include: access to natural light; radical reductions in carbon emissions; freedom from unacceptable noise and light pollution; safety from risk of fire; inclusive, accessible and adaptable surroundings; resilience to climate change; minimal contribution to air pollution; better space standards; access to sustainable transport and walkable services.

We believe that widening permitted development as proposed in the consultation will undermine efforts to improve housing design quality overall.

Loss of character in conservation areas

We are very concerned that this consultation proposes that the new right would apply in conservation areas. There are many unlisted or locally listed buildings that fall, though not exclusively, within conservation areas that might be able to change use to housing if the new PD right was introduced by the government. We are concerned that widening the current permitted development rights in conservation areas to allow such changes of use, without the need for a planning application, could undermine current protections and threaten the ‘special interest’ reason why conservation areas have been designated in the first place.

We strongly believe that any changes in conservation areas should come through a process of managed change, considered through the standard planning application process, not through permitted development.

Q6.1 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?

Yes	X
No	
Don't know	

If so, please give your reasons:

Yes. We consider it would have a negative impact on business, communities, and local planning authorities. A random and unmanaged fragmentation of town and neighbourhood centres and employment areas could have a negative impact on surrounding businesses and lead to a less attractive and viable town centre. Communities could also suffer through loss of valuable local facilities and employment space. The local planning authority would lose its ability to plan positively and creatively for facilitating change and adaptation of town and retail centres and employment areas to respond to changing shopping and leisure habits and to increase local jobs. Changes to residential use would be irreversible, so any flexibility offered is only one way, leading to loss of potentially valuable mixed uses. However, it would of course benefit property owners who seek the highest value for their property.

It is unclear from the consultation whether communities would be able to comment on prior approval applications, and what level of publicity would be undertaken or timescales for consultation. In any case, the type and range of issues communities could meaningfully comment upon would be limited to the prior approval matters, which we do not consider to be sufficient. As such, we consider the proposed PD right would undermine the ability of communities to have a voice in the future of their area.

Q6.2 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 a protected characteristic?

Yes	X
No	
Don't know	

If so, please give your reasons:

Yes. Local facilities and services have become more important for us all, due to the current Covid-19 pandemic, and this is most acute for people with a protected characteristic. Loss of local shops and services would have a negative impact on the elderly, people with poor mobility,

those with disabilities and those on low incomes who are unable to afford to travel to our town centre.

Supporting public service infrastructure through the planning system

Q11 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)?

Yes	
No	X

Please give your reasons:

No. Whilst we support the need to speed up the planning system for critical public service infrastructure, we object to the reduction of the statutory consultation period for these schemes from 21 to 14 days, as a means of speeding up the process. For this reason, we cannot support the proposal.

Q12 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?

Yes	X
No	

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

If introduced by the government, the proposed uses (hospitals, schools and further education colleges, and prisons, young offenders' institutions, and other criminal justice accommodation) seem appropriate.

However, this whole section appears to treat the planning process as if it were an undesirable burden on the providers of public infrastructure rather than as a means of engaging citizens in the way in which their community develops and its needs are met. We reject this view. The Government's aim should be to ensure that schools, colleges, hospitals, and prisons engage publicly and openly with the community at the earliest stage when they are considering expansion or relocation. These are major schemes of critical services, with which communities should be meaningfully engaged in the development. We believe that if local communities and civic societies were genuinely and meaningfully engaged at an early stage in these schemes, obtaining full planning permission would be much quicker.

Q13 Do you agree the determination period for applications falling within the scope of the modified process should be reduced to 10 weeks?

Yes	
No	X

Please give your reasons:

No. These are complex applications, and the existing 13-week period should be maintained.

Q14 Do you agree the minimum consultation / publicity period should be reduced to 14 days?

Yes	
No	X

Please give your reasons:

An efficient and effective process is important for critical public service infrastructure development e.g., hospitals; however, it is concerning that the public consultation is proposed to be reduced to 14 days for major developments (which could be up to 5 hectares in size). We welcome renewed emphasis on effective pre-application engagement, but such engagement is not just internal confidential discussions between the applicant, statutory consultees, and the local authority. For major developments it must involve the local community.

Q15 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? (We propose that this notification should take place no later than 8 weeks after the application is validated by the planning authority.)

Yes	
No	X

Please give your reasons:

This would add additional bureaucracy to already overworked and understaffed local planning authorities.

Q16 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?

Yes	X
No	

Please give your reasons:

Yes. However, the requirement to work proactively to resolve key issues before planning applications are submitted should also apply to those public service providers and developers bringing forward the development. Proactive planning requires resources in people and skills, particularly in communicating meaningfully and effectively with local communities, and this needs to be reflected in enhanced budgets for local planning authorities.

Q17.1 Do you have any comments on the other matters set out in the consultation document, including post-permission matters, guidance and planning fees?

Yes	X
No	

Please specify:

Para. 67 on post permission consents is important. Our experience is that on major developments it is frequent for changes to the approved application to be sought in advance of, or during, construction. These may be minor, and easily granted, or they may make significant changes which need proper public consultation. The local planning authority must not be blamed for consequent delay, and as well as monitoring local planning authorities' performance the government should monitor the performance of the body that is making the application, to see if delay is caused by its own inefficiencies or frequent changes of mind.

Q17.2 Do you have any other suggestions on how these priority public service infrastructure projects should be prioritised within the planning system?

Yes	X
No	

Please specify:

Local planning authorities in urban areas in England have had their budgets cut by 41% over the last ten years: <https://www.centreforcities.org/reader/cities-outlook-2019/a-decade-of-austerity/> (see Fig. 6) We consider the best way to prioritise all major development applications would be to invest in local government and improve capacity, technology and skills.

Q18 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?

Yes	X
No	

If so, please give your reasons:

If the proposed consultation period is so short (and at 14 days, we believe it is) that local people with a protected characteristic find it difficult to find out about and comment upon complex applications for important public service infrastructure.

Consolidation and simplification of existing permitted development rights

Q19.1 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?

Agree	X
Disagree	
Don't know	

Please give your reasons:

We support the broad approach outlined in Para. 76, however we note the complexities and potential issues set out in Para. 78 and reserve the right to comment on the detail of proposed changes to the legislation when they are consulted upon. This area of planning legislation is complex and for community groups to understand the potential impacts of changes on their communities, it is important that the government consults upon the detail.

We would not support a review of the legislation leading to widening of the PD rights to include land and properties within conservation areas.

Q20 Do you agree think 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?

Agree	X
Disagree	
Don't know	

Please give your reasons:

Yes, subject to special protections for conservation areas, in particular, allowing local planning authorities to consider the design of any changes to the external appearance of the building.

Q21 Do you agree the broad approach to be applied in respect of category 4 outlined in paragraph 76 of the consultation document?

Agree	X
Disagree	
Don't know	

Please give your reasons:

Yes, Harlow Civic Society reserves the right to comment on the detail of proposed changes to the legislation when they are consulted upon. This area of planning legislation is complex and for community groups to understand the potential impacts on their communities, it is important that the government consults upon the detail.

Q22 Do you have any other comments about the consolidation and simplification of existing permitted development rights?

Yes	X
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No	
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Please specify:

Based on our experience in Harlow, we do not support the continuation of the existing permitted development rights for the conversion of offices to residential units.

Harlow Civic Society
January 2021

contact@harlowcivicsociety.org.uk