



Supporting Housing Delivery & Public Service Infrastructure

Response submitted by the National Trust to the Ministry of Housing, Communities and Local Government

28 January 2021

With our staff, members, volunteers and supporters, the National Trust is the biggest conservation charity in Europe. We protect and care for places so people and nature can thrive. Many millions share the belief that nature, beauty and history are for everyone. So we look after the nation's coastline, historic sites, countryside and green spaces, ensuring everyone benefits. For everyone, for ever.

Introductory Comments:

The National Trust welcomes the opportunity to respond to the consultation entitled 'Supporting Housing Delivery & Public Service Infrastructure'.

As the UK's largest private landowner, a conservation charity, significant tourism and rural business, and occasional developer, planning law and processes affect our work on a daily basis. This includes everything from the management and sustainable development of our own land and buildings to the need to engage constructively and effectively with the development proposals of others when they impact the places we hold in trust for the nation.

The National Trust was founded 125 years ago on the simple and enduring idea that people need historic, beautiful and natural places. We have a long history of championing the fundamental importance of the planning system for conservation and for creating places that benefit communities. The National Trust is not against change and development. But it is our strong belief that the role of the planning system is being diluted by piecemeal changes that could not only undermine future reform, but also result in significant economic, environmental and social impacts which go to the very core of the sustainable development that planning system is trying to achieve.

Scale and Pace of Change:

The National Trust believe that the scale and pace of planning reform in England is increasingly becoming a cause for real concern. Since June 2020 there have been 6 changes to the General Permitted Development Order (GDPO), a significant change to the Use Classes Order (UCO), a consultation on changes to the current planning system and the Planning White Paper; "Planning for the Future", which must surely be the benchmark for the Governments future ambition for planning. This current consultation was launched so that it ran over the Christmas period, making it especially challenging for organisations to properly respond. In addition to this we are anticipating changes to the National Planning Policy Framework (NPPF), a new model design code and changes to the Environmental Regulations.

As we have highlighted in all our recent consultation responses, we believe that the planning system can and should be improved and indeed, there are positives in the ambition and vision on the White Paper, our response to which was framed in a constructive way.

However, we believe that both the direction of travel and the varied mechanisms being used to achieve piecemeal planning reform at speed risks the system becoming disjointed, confused and contradictory. Changes are being introduced without sufficient detail, in some cases without consultation, and are themselves driving yet more change. We do not believe that this approach will achieve the Government's aims of speed, consistency and clarity.

To illustrate, there has been little time for the recent changes to the Use Class Order to 'bed in' since they were introduced in September 2020 and the real implications and impacts of this are yet to be seen and felt on the ground. As a result, we believe it is simply too soon to consider extending Permitted Development Rights to the new Class E. This piecemeal change is leading to some obvious contradictions and inconsistencies, for example the proposed Permitted Development Right for Class E change of use (COU) to residential are directly at odds with both the welcome focus on design and placemaking and on the plan led system as championed in the White Paper. In addition, it could undermine the Government's own investment in high streets via the Future High Street Funds, and fundamentally, also conflict with key areas of policy within the NPPF.

Specific Implications of Proposed Class E Changes:

The Trust considers that proposed changes to Class E Permitted Development Rights will simply make it impossible for Local Authorities to plan effectively for high streets and town centres, and will undermine the primacy of Local Plans as changes to the high street, town centres, edge of towns and rural locations will be outside of any planning controls. This could see both housing and employment allocations in Local Plans failing in favour of relatively uncontrolled housing via the new Permitted Development Rights. We believe that this would further undermine the plan-led system and the Government's own policies contained in the NPPF and National Planning Practice Guidance (NPPG) which seek to support a prosperous rural economy, promote healthy and safe communities, promote sustainable transport and ensure the vitality and viability of town centres, as well as the fundamental pillar of sustainable development, which we consider will be challenging to reconcile without further restricting the scope of areas to which Permitted Development Rights apply, in order to ensure these policies can be retained in both national and local policy documents going forward. It is also unclear how this approach could be reconciled with "Pillar One – Planning for development" in the Government White Paper "Planning for the Future", where the approach and focus in each zone could be undermined through such wide-ranging Permitted Development Rights. The current framework means that there will be no ability to secure affordable housing or other S106 contributions via this route, and there is no delivery of green spaces or other services, unless changes are made following the Planning White Paper consultation. The value of planning and planners in delivering sustainable and liveable places is lost. We also believe that these changes are likely to drive further significant changes to the NPPF.

Experience of previous planning reforms have shown very clearly that new Permitted Development Rights for COU to residential are likely to have a high take up level as seen when the rights for COU to residential from office were brought in. However, the Government's own research has confirmed that housing delivered through these rights are lower quality than those that are permitted via the grant of planning permission. What makes good housing is much more than simply setting internal space standards and adequate light. It is about community, access to goods and services, green space and wider connections. It is these joined up considerations that planning, and planners deliver, truly sustainable and liveable communities.

We do not believe that great housing can be delivered through extending Permitted Development Rights, or indeed suitably controlled or assessed via the prior notification process. For prior notification to be an effective mechanism the development should be acceptable as a matter of principle locationally and in all other regards. There should only remain a small number of straightforward matters to 'check' that are minor or easy to resolve. To place significant and complex technical matters on the 'list' of prior notifications does not serve to make the process quicker or more consistent for either Local Planning Authorities (LPAs) or developers. It becomes as burdensome as a full planning application for developers and so the benefits are reduced. In addition, it is not possible to consider locational factors as part of the prior notification process for housing developments, and where it may have an impact on town centre or commercial uses this is critical. We believe that the prior notification has a useful role to play in the planning system and indeed our response to the consultation sets out that it would be an effective way to manage expansion at school, hospital and prison sites. However, it is not sophisticated enough to deal with complex matters like residential uses. It is also not clear how the prior notification process could deal with cumulative impacts, if at all.

Furthermore, as currently set out, these proposals also ignore the effect on businesses that already rent their premises, or which will seek to do so in future: including business start-ups and small and micro-businesses seeking to expand. We suggest that the effect on the availability of premises for employment uses may be particularly acute in rural areas where the availability of premises is already limited, and residential rents are much higher than non-residential rents. It also ignores the potential economic, environmental and social consequences of the loss of local shops, employment and services, such as banks and post offices, which it can only encourage and accelerate.

To be clear, while we are saying the Permitted Development Rights and the prior notification process are not appropriate for this proposed COU to residential, we are not saying that the related development should never be allowed. Simply that it should be considered through the planning process which enables all material considerations to be taken into account and so contribute to achieving the Government's objectives. We are fully aware of that some long-standing Permitted Development Rights for COU to residential have successfully contributed to housing delivery without significant detrimental impacts. A good example of this is the 'living above the shop' Permitted Development Rights which do not affect ground floor uses and so do not undermine town centre vitality and viability. Other broader Permitted Development Rights for residential uses have been significantly more controversial and there is substantial evidence that they have delivered housing with mixed quality including the Permitted Development Rights for COU to

residential from offices (Class O)¹ and conversion of agricultural buildings to Residential (Class Q). We feel that it would not be possible to put meaningful restrictions around the proposed Permitted Development Rights for Class E and that significant negative impacts could be felt by the unrestricted extension of Permitted Development Rights for COU to residential.

Other Potential Unintended Consequences:

We believe that if the changes are brought in it could lead to LPAs bringing in Article 4 directions to remove Permitted Development Rights in key areas. This is particularly likely in town centres where they could, in turn, push developments into even less sustainable/edge of town locations.

As outlined previously, we would anticipate a significant take up of any new Permitted Development Rights and there are clearly resource implications for LPAs especially if the prior notification process comes with reduced fees compared with Planning Applications and restricted considerations.

We also believe that this will move regulation outside of the planning remit and could place additional burdens on other functions such as Environmental Health for example in relation to noise complaints.

Conclusions

Overall, The National Trust accepts the need for a review of the GDPO and agrees that a consolidated version would be of assistance to many and provide welcome clarity. Greater certainty is required as to what would need to be amended and whether it is required if the Class E rights are not progressed. A precautionary approach should be taken, and further consultation undertaken on the changes to ensure effects are subject to public scrutiny.

We also believe that the proposed Permitted Development Rights for schools, universities, colleges, hospitals and prisons could be made to work subject to additional safeguards being implemented as set out in the detailed responses to the consultation. It is our view that these rights could be adequately controlled via the prior notification process. We have no overarching concerns around the proposed consultation timescales or the determination periods for these types of applications.

We are however, deeply concerned about, and fundamentally opposed to, the proposed expansion of the Permitted Development Rights for the new Class E to change to residential use. We accept that there is a long history of permitted changes from some use classes to Residential that have historically delivered some level of housing and provided a range of accommodation (eg flats). However, the recent changes to Part E have

¹ Research conducted by RICS 2018 Assessing the impacts of extending permitted development rights to office-to-residential change of use in England and MHCLG commissioned Research into the quality standard of homes delivered through change of use permitted development rights 2020. Both reports concluded that the quality of homes delivered through PD rights were of worse quality than those obtained through planning permission and had lower levels of amenity provision and access to green space. Delivery of housing through this route also undermined the ability of LPA's to deliver plans effectively.

broadened the range of uses within a single class so extensively, that it is almost impossible to see how adequate safeguards (eg size restrictions or exemptions) could meaningfully be drafted to cover all possible eventualities given the disparate nature of uses that now fall within the new Class E.

We believe that the impacts of this proposal would be significant and that the underlying move away from a plan-led system this represents is deeply concerning and at odds with the vision for planning as set out in the Planning White Paper: "Planning for the Future". While we recognise that the Government has made natural light and space standards concessions, we believe that the challenge of providing cohesive and sustainable communities and high-quality living accommodation is more complex than this, and that poor housing will still result if these Permitted Development Rights for Class E go ahead. It will hamper the ability of LPAs to effectively plan and manage development, it impacts on supply of premises to support the economy and is contrary in turn to the Government's own ambition around placemaking, design and tackling climate change.

Layering change upon change in this way will result in a confused and fragmented set of reforms which have the potential to be both contradictory and extremely damaging, and to undermine our longstanding plan-led approach. We would urge Government to focus on quality decision making and joined up reform and move away from the current piecemeal approach to speed and de-regulation.

Our detailed response to individual consultation questions follows.

Supporting Housing Delivery & Public Service Infrastructure

About this Consultation

This consultation document and consultation process have been planned to adhere to the consultation principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation 2016, and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with the law and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. A full privacy notice is included on the next page.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

Please confirm you have read this page. *

Yes	X
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Privacy Notice

The following is to explain your rights and give you the information you are entitled to under the data protection legislation.

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the data controller and contact details of our Data Protection Officer

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at dataprotection@communities.gov.uk.

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

Article 6(1)(e) of the General Data Protection Regulation 2016 (GDPR) provides that processing shall be lawful if processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.

Section 8(d) of the Data Protection Act 2018 further provides that this shall include processing of personal data that is necessary for the exercise of a function of the Crown, a Minister of the Crown or a government department.

The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Ministry of Housing, Communities and Local Government. The task is consulting on departmental policies or proposals or obtaining opinion data in order to develop good effective government policies in relation to planning.

4. With whom we will be sharing your personal data

We will not share your personal data with organisations outside of MHCLG without contacting you for your permission first.

5. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for 2 years from the closure of the consultation

6. Your rights, e.g. access, rectification, erasure

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have all or some of your data deleted or corrected
- d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or

telephone 0303 123 1113.

7. Storage of your personal data

We are using SmartSurvey to collect data for this consultation, so your information will be stored on their UK-based servers in the first instance. Your data will not be sent overseas. We have taken all necessary precautions to ensure that your data protection rights are not compromised by our use of third-party software.

If you submit information to this consultation using our third-party survey provider, it will be moved to our secure government IT systems within six months of the consultation closing date (28 January 2021).

8. Your personal data will not be used for any automated decision making.

Please confirm you have read this page. *

Yes	<input checked="" type="checkbox"/>
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Respondent Details

This section of the survey asks for information about you and, if applicable, your organisation.

First name *

Lisa

Last name *

Lamb

Email address

Lisa.lamb@nationaltrust.org.uk

Are you responding on behalf of an organisation or as an individual? *

Organisation	<input checked="" type="checkbox"/>
Individual	<input type="checkbox"/>

Organisation (if applicable)

THE NATIONAL TRUST

Position in organisation (if applicable)

Head of Planning and Major Infrastructure

Please indicate whether you are replying to this consultation as a: *

Developer	<input type="checkbox"/>
Planning consultant	<input type="checkbox"/>
Construction company or builder	<input type="checkbox"/>
Local authority	<input type="checkbox"/>
Statutory consultee	<input type="checkbox"/>
Professional organisation	<input type="checkbox"/>
Lawyer	<input type="checkbox"/>
Charity or voluntary organisation	<input checked="" type="checkbox"/>
Town Council	<input type="checkbox"/>

Parish Council	
Community group, including residents' associations	
Private individual	
Other (please specify):	

Please indicate which sectors you work in / with (tick all that apply): *

Education section	
Health sector	
Prison sector	
None of the above	X

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:

The National Trust **DISAGREES** that there should be no size limit within the new permitted development right. More generally we disagree with the proposed Permitted Development in its entirety.

A permitted development right for Class E to change use to residential would be directly at odds with both the welcome focus on design and placemaking and the plan led system itself as championed in the White Paper. It would also undermine the Government's own investment in high streets via the Future High Street Funds. It would erode key areas of policy within the National Planning Policy Framework (NPPF).

The proposal ignores the effect on business that already rent their premises or which will seek to do so in future: including business start-ups and small and micro-businesses looking to expand. We suggest that the effect on the availability of premises for employment uses may be particularly acute in rural areas where the availability of premises is limited and residential rents are much higher than non-residential rents. It also ignores the potential economic, environmental and social consequences of the loss of local shops, employment and services – such as banks and post offices, which it can only encourage and accelerate.

The proposed changes to Class E Permitted Development Rights will simply make it impossible for Local Authorities to plan effectively for high streets and town centres and will undermine the primacy of Local Plans as changes to the high street, town centres, edge of towns and rural locations will be outside of any planning controls. This could see both housing and employment allocations failing in favour of relatively uncontrolled housing via the new Permitted Development rights. There will be no ability to secure affordable housing or other S106 contributions via this route, and there is no delivery of green spaces or other services. The value of planning and planners in delivering sustainable and liveable places would be lost.

A size limit would make the permitted development less damaging. But even with a size limit we consider that this proposal would result in negative impacts for communities across the country, not just as a result of individual proposals but even more so through the cumulative effect of exercise at scale. The government should think again.

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:

As explained in our answer to Q1, the National Trust considers that the right should not be introduced at all. If the government decides to introduce it, we **AGREE** that the right should not apply in the areas listed in Q2.1. At the site level, we agree with the suggestions in paragraph 18 that the rights should not apply in SSSIs, to listed buildings and land within their curtilages and sites that are or contain scheduled monuments.

If the government is minded to proceed with this proposal, we consider that there should also be a general exemption for rural areas. The justification put forward in the consultation document relates solely to high streets and town centres. While the consultation document acknowledges that the use class applies everywhere it does not offer any clarity in terms of the general effect of change of use to residential other than in high streets and town centres. To give a few general scenarios, class E uses exist as:

- corner shops and suburban shopping parades providing local sustainable access to goods and services and a focus for community cohesion;
- shops (other than those coming within Class F2), banks and other essential services in villages;
- doctor's surgeries and day centres;
- rural business parks providing local job opportunities in deprived areas, including starter units for small businesses;
- industrial estates remote from schools and any other social infrastructure.

We do not believe that the loss of local shops and services and rural employment opportunities resulting from such an approach would be in any way justified by the volume of housing delivered. Nor that the middle of an industrial estate remote from any school or doctor's surgery makes a good place for housing.

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

Agree	
Disagree	X
Don't know	

Please give your reasons:

The National Trust **DISAGREES** that this new permitted development right should apply in Conservation Areas. Conservation Areas often cover the commercial and social core of a City, Town or Village and reflect the historic development of the place, often over many centuries. The National Trust accepts that there is a long history of residential uses forming an important part of the variety of uses found in Conservation Areas and that evolution and change within these areas over time continues to add and support their local distinctiveness and significance. It could be argued that the proposed extension of permitted development rights for Class E is another facet of this process, but the National Trust believes that to retain the values and significance of these areas for future generations consideration of applications through the normal planning process, where a proper evaluation of the benefits and harms can be undertaken, is a more appropriate way to proceed. There has been a long tradition over many centuries of people “living above the shop” and there is no reason why this should not continue to be supported through the normal planning process but that the diversity and distinctiveness of these areas can also be properly protected. The National Trust considers that the proposed ability to change the use of numerous building and units within Conservation Areas without the need for going through the formal planning process would fundamentally undermine the statutory duty required by Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 of “...*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*” There is no indication in the consultation document of how this statutory requirement would be incorporated into the prior notification process and the National Trust remains extremely concerned about the potential for such a proposal to dilute the value and significance of Conservation Areas, whether in urban or rural locations. The success of Conservation Area policy can be seen as it has ensured that the Nation’s “special places” have remained special and the National Trust is concerned that this proposal puts this at fundamental risk.

Conservation Areas are often the focus for commercial, social and community facilities, and while the National Trust acknowledges that they are also often the focus for transport hubs as well, and consequently this does make them some of the most sustainable locations with facilities and services accessibly located, the loss of this range of facilities and services to solely residential use would have the potential to completely change the character and appearance of these areas. Local distinctiveness is one of the cornerstones of the value and significance of a Conservation Area and supports and cements local pride and identity. This local distinctiveness often then supports and promotes a vibrant mixed economy and the continual interaction between the two creates positive social, environmental and economic effects. Undermining this relationship has, in the National Trust’s view, the potential to create stagnant and characterless areas in both urban and rural areas. Robert Merton Solow, the Nobel Prize winning economist, articulated this by stating “*over the long term, places with strong, distinctive identities are more likely to prosper than a place without them. Every place must identify its strongest, most distinctive features and develop them or run the risk of being all things to all person and nothing special to any*” (in Licciardi et al, 2012). The proposed change to allow the new Class E uses to change to residential without proper consideration of the full range of benefits and harms could result in a loss of prosperity and distinctiveness to drive forward local economies.

The loss of floorspace and buildings to residential use will, in the National Trust’s view, not only undermine the local distinctiveness and vibrancy of a place by having the potential to result in Conservation Areas becoming less diverse in terms of their uses, but also result in an impact on the prospect of economic growth. The National Trust has seen no evidence produced as part of this consultation which has sought to demonstrate that the loss of distinctiveness and variety of

uses found in the nation's Conservation Areas, which could occur as a result of this proposed permitted development right, would result in an overall improvement to the economic prosperity of these parts of our urban and rural areas. The National Trust would suggest that this should be an area for further investigation as it would seem perverse to end up with the market place of a city, town or village actually performing no "market" function ie: no regular gathering of people for the purchase or sale of provisions, livestock or other commodities or commercial dealings undertaken. However, such a proposition would be entirely possible should Conservation Areas not be excluded from this proposed permitted development right.

Much of the premise for this proposed permitted development right for Class E seems to be based on the need for swift action to support the nation's recovery from the Covid-19 pandemic and for this to have the widest reach across the nation. However, it is interesting to note that a number of the towns and cities being support by the Towns Funds' £80 million are basing their policies and programmes on the range of uses supported by the heritage value and regeneration potential of their Conservation Areas eg: Barrow-in-Furness, Preston and Swindon. This proposed permitted use has the potential to swiftly undermine the objectives of helping to share prosperity across the country and level up the economic prospects of towns and cities by taking away the diversity of uses and social and commercial focus on which they rely.

The National Trust would therefore suggest that, based on this response, the proposed rights do not apply to Article 2(3) areas including Conservation Areas and this ensures that the ability for their value and significance to be maintained and enhanced in line with statute and the NPPF

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:

The National Trust **DISAGREES** with this suggestion and would recommend that if this right is to be introduced then a consideration of the impact of the loss of the ground floor to residential must extend far wider than just Conservation Areas and that greater clarification is required as to the terminology being used and the tests that would apply.

Firstly, the National Trust considers that greater clarification is needed as to how this impact is to be assessed through the Prior Notification process. Paragraph 19 of the consultation document refers to the “...*conservation value that retail frontages can bring*...” but the National Trust is unclear what is meant by the term “conservation value” in this context. We consider that not only is this term ambiguous in its intent but are also unsure how this would then be applied by Local Planning Authorities as they determine Prior Notification applications, Is the proposal here that Local Planning Authorities would only be able to refuse a Prior Notification if there is an adverse impact on the “conservation value” of the frontage from a character and appearance perspective, or is it envisaged that the “value” of the frontage could be more widely interpreted? The National Trust considers that a clear definition of “conservation value” needs to be provided, along with guidance on the tests that will be applied in determining whether a proposed change of use has an adverse effect on it. The National Trust is extremely concerned about a possible narrow interpretation of the term as our previous response to Q2.2 indicates that conservation value, as the National Trust would consider it, is actually derived by the variety and diversity of uses found in Conservation Areas and their social and community functions, as well as economic.

It is not clear to the National Trust what evidence would be required, who it would be produced by, and how it could be considered in a Prior Notification process. We consider that this needs further careful consideration. We would suggest that the current areas to be considered under this Prior Notification process, as identified in paragraph 21 of the consultation document, are quantitative factors ie: there is existing data or standards which are either complied with or not, but what this proposal introduces is a qualitative factor which is much harder to determine and will generally result in more debate and judgement. The National Trust would suggest that this will be harder to achieve through the Prior Notification process.

The Government is acknowledging through this proposed additional consideration that the permitted development right for the change of use from Class E to residential (Class C3) does have the potential to adversely impact on the ground floor units in Conservation Areas. We do therefore welcome this potential option, as it would enable some control to be retained to protect the significance of these heritage assets. However, it is important to understand that the impact of the loss of retail and commercial units, as well as other facilities such as creches/nurseries, medical and day centres, at ground floor level could be as severe outside of Conservation Areas and therefore the National Trust considers that assessment of the impact of the loss of them should have a greater scope than is being advocated in the consultation document.

Many Local Plans seek to protect retail and commercial frontages, whether they are in Conservation Areas or not, using primary and secondary frontage designations, especially at ground floor level. The proposed additional requirement for consideration of the impact of the loss of ground floor retail in Conservation Areas through the Prior Notification process would not enable the wider protection of these important facilities and services in many suburban, market town or rural situations outside of Conservation Areas, yet their loss would potentially have equal impact with not only the change in physical character, but a loss of community identity and focus as well as actively encouraging less sustainable forms of development. This could be demonstrated in a suburban location where you often find a parade of shops providing convenience retailers, a local childcare facility and hairdressers all being permitted to change to residential through the proposed

permitted development right leading to local residents no longer having access to these facilities in their immediate area and needing to access them in a larger town or city centre by less sustainable means or indeed meaning that some people can no longer access them and adding to deprivation and social exclusion of particular groups in society. To the National Trust this proposed “exclusion” of these units in Conservation Areas would seem to demonstrate the issues that we have identified as being the reason why this proposed deregulation is not appropriate in principle.

The National Trust is also concerned that this further undermines the plan-led system and the Government’s own policies contained in the NPPF and NPPG which seek to support a prosperous rural economy, promote healthy and safe communities, promote sustainable transport and ensure the vitality and viability of town centres, as well as the fundamental pillar of sustainable development which we consider will be challenging to reconcile without the scope of areas where this could apply being restricted further to ensure these policies can be retained in both national and local policy documents going forward. It is also unclear how this approach could be reconciled with “Pillar One – Planning for development” in the Government White Paper “Planning for the Future”(August 2020), where the approach and focus in each zone could be undermined through such wide ranging permitted development rights.

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:

The National Trust considers that the list proposed is inadequate and cannot be made adequate and therefore **DISAGREES** with this question. We consider that prior notification is a wholly unsuitable mechanism for addressing the range of issues that exercise of the proposed permitted development right would create individually and cumulatively.

Class E covers a very wide range of uses that exist in a very wide range of buildings, in very widely differing contexts. The potential impacts of changes are individually and cumulatively significant. Individually, they potentially differ so much from case to case that they can only realistically be summarised as all material considerations, including those raised by the whole of the National Planning Policy Framework and the development plan. It is far from clear how prior notification could be expected to deal with cumulative effects.

Excluding relevant considerations runs the risk of hamstringing the policies that the government has set out in the National Planning Policy Framework and its aspirations in the Planning White Paper, leading to low quality development in unsustainable locations with a risk of unnecessary and unjustified harm to natural and cultural heritage.

Trying to cover all relevant considerations through prior notification would result in a system that is cumbersome, opaque, confusing and open to legal challenge and uncertainty.

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

Yes	X
No	
Don't know	

Please specify:

The National Trust considers that **YES** there are other planning matters that should be considered. As set out in our answer to Q3.1, the National Trust considers that the list proposed is inadequate and cannot be made adequate. We consider that prior notification is a wholly unsuitable mechanism for addressing the range of issues that exercise of the proposed permitted development right would create individually and cumulatively.

Class E covers a very wide range of uses that exist in a very wide range of buildings, in very widely differing contexts. The potential impacts of changes are individually and cumulatively significant. Individually, they potentially differ so much from case to case that they can only realistically be summarised as all material considerations, including those raised by the whole of the National Planning Policy Framework and the development plan. It is far from clear how prior notification could be expected to deal with cumulative effects.

Excluding relevant considerations runs the risk of hamstringing the policies that the government has set out in the National Planning Policy Framework and its aspirations in the Planning White Paper, leading to low quality development in unsustainable locations with a risk of unnecessary and unjustified harm to natural and cultural heritage.

Trying to cover all relevant considerations through prior notification would result in a system that is cumbersome, opaque, confusing and open to legal challenge and uncertainty.

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 dwellinghouse?

Agree	X
Disagree	
Don't know	

Please give your reasons:

The National Trust is concerned about the resourcing of Local Planning Authorities and the effect that this has on the quality and pace of operation of the planning system. The proposed permitted development right would place burdens on Local Planning Authorities both in handling prior notifications and in enforcement oversight to ensure compliance with conditions and limitations. If the Government is minded to proceed with the proposal, a fee per dwellinghouse should be set to cover this burden unless other sources of funding are made available.

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:

Bearing in mind our concerns about the level of resourcing for Local Planning Authorities we consider that the fee should be set to cover the burden of the work involved and not to reduce the level of resources available to Local Planning Authorities. The fee for an application for planning permission for a single dwelling is currently £462. We are sceptical that the burden of the proposed permitted development right on local planning authorities would be only 20% of the burden of an equivalent application for planning permission.

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:

The National Trust has a number of other comments regarding this proposed permitted development right which have not been addressed by the questions posed and this links to our introductory comments regarding this proposal.

The Plan-Led System

Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out the basis for the plan-led system on which planning decisions in England are currently made. The White Paper: Planning for the Future (2020), while suggesting changes to this system does not seek to undo this fundamental and long-established plan led pillar. Given the degree of deregulation and fast-track approval envisaged as a result of this change in permitted development rights however, it is hard to see how these proposals would not result in a fundamental shift away from the plan-led approach. Many of the uses now found in the new Class E are often subject to protection or restrictions through the development plan system to ensure adequate provision is made for these facilities and services in a coherent and sustainable manner. The introduction of a right to change from Class E to residential has the potential to undermine many of these long-established policies which are often supported by other local and national planning policies, as well as established case law and appeal decisions. Two examples of where there appears to be conflict are for town and city centres which are often protected at ground floor (and sometimes upper floors) by primary and secondary shopping frontages to maintain vitality and viability and ensure that convenience and comparison goods and services are protected and located in the most sustainable locations which can be accessed by a wide sector of the population. A second example is the protection of employment sites. While the Covid-19 pandemic has altered the way that many businesses operate, it is not yet known if this will lead to permanent, structural change in this sector of the economy and it is likely to be some time before any long-term alterations to requirements can be established. The proposed permitted development right could result in the loss of all protected

employment sites in a Local Planning Authority area and consequential reduction in opportunities for business to expand and grow and a reduction in sustainability as these businesses have to relocate or start-up in adjoining areas. The undermining of a proper, robust plan-led approach through the introduction of new permitted development rights with only a prior notification procedure, would seem to the National Trust to result in the potential for a backward step in achieving sustainable development, the fundamental basis to all planning in England.

Changes Required to National Policy

In addition to our concern regarding the impact on the plan-led system, we are concerned with how it would be reconciled with current National Planning Policy and Guidance contained in the NPPF and NPPG. The National Trust considers that the following sections of the NPPF would have to be reviewed and altered:

- Achieving sustainable development.
- Building a strong, competitive economy, including supporting a prosperous rural economy.
- Ensuring the vitality of town centres.
- Promoting healthy and safe communities.
- Promoting sustainable transport.
- Achieving well designed places.
- Meeting the challenge of climate change, flooding and coastal change.
- Conserving and enhancing the natural environment.
- Conserving and enhancing the historic environment (if Conservation Areas are included in the proposed areas where the right would be permitted, although the National Trust does not agree with this suggestion re: Q2.2)

The National Trust is of the view that any alterations to the NPPF and NPPG need to be undertaken in an appropriate and timely manner and question how this could be achieved with the potentially significant changes required as a result of the ambitions contained in the Planning White Paper yet left with the issue of conflict between existing national policies and permitted development rights.

Access to Open Space and Provision of Green Infrastructure

The current Covid-19 pandemic has highlighted the disparity in access to good quality and accessible open space, especially in urban areas of high-density housing. The proposed permitted development right has no requirement for provision of open space or contributions towards its provision as part of the prior notification process and consequently the existing disparity in access to open space is likely to be perpetuated and increased. The majority of buildings currently in Class E use have little or no outside space and are often in locations where open space may well be beyond the recommended 300m and PROWs are not provided. The National Trust would request that, given the research undertaken by both the medical profession and other Government departments in the last year indicating the adverse effect on mental and physical wellbeing and the consequential impacts on the economy and NHS of a lack of access to meaningful and accessible open space, very careful consideration is given to any permitted development changes which lead to further residential accommodation being developed without either access to, or contributions for, this important social infrastructure requirement.

Impacts in Rural Areas

The development of this permitted development right seems to the National Trust to be focused on the perception of benefits that could accrue in urban areas, but little consideration has been given to the potential adverse effects in rural areas or more remote rural settlements. While the National Trust recognises that some of these areas will be protected from this right by virtue of lying within AONBs, National Parks etc, there will still be significant potential for the loss of retail, commercial and service facilities many of which are often the only ones within a rural area and will further impact on rural deprivation. It is accepted that single retail units in rural areas are unlikely to fall within Class E and are “protected” by Class F2, however small rows of shops, local employment sites and medical and childcare facilities all have the potential to be lost to residential use. The National Trust is concerned that this will lead to further difficulties for existing rural populations who rarely have the same access to public transport to access alternative facilities and services. The loss of local employment opportunities and the placing of additional burdens on often already over-stretched facilities as a result of the development of new residential units cannot be underestimated and we would urge that further assessment is undertaken as to the potential impact of this permitted development right on these rural populations, which includes many National Trust tenants, prior to it being taken forward.

Provision of Affordable Housing

The proposed permitted development right has the potential to allow significantly more units to gain a right to change to residential use, even with the confirmed exclusions indicated in paragraphs 18 and 19 of the consultation. However, as this will only be subject to the prior notification process there is no opportunity currently to seek to secure affordable housing, either on-site or through an off-site contribution. Research undertaken by the charity Shelter indicated that to meet the nation’s affordable housing need (across all types) required the development of 155,000 units per annum (Shelter – A Vision for Social Housing, 2019). This is more than 50% of the total target of 300,000 homes per annum set out by the Government as its target by the mid-2020’s. If the Government is hoping that the introduction of the permitted development right for Class E uses to change to residential will result in the delivery of a higher number of units than the current Class M, N, O, P and PA permitted development rights than under the current system, the National Trust consider that the affordable housing need of the country will not be achieved. However, the National Trust has noted that in the Planning White Paper: Planning for the Future (August 2020) it has been suggested that a new Infrastructure Levy could apply to permitted development rights, along with the creation of additional floorspace. The outcome of this consultation is not yet known, but the National Trust accepts that should this change be made affordable housing provision could potentially be secured.

Lack of Ability to Secure Contributions

The provision of this permitted development right through the prior notification process makes it impossible to secure the support facilities and services which residents of any new dwellings will want to access. Contributions secured through the planning application process secure mitigation of a wide range of impacts that residential development can have and ensure the facilities, services and infrastructure can be provided in a timely and appropriate manner. The National Trust is concerned that further burden will be placed on already over-stretched services, particularly those relating to health and education, as a result of this proposed permitted right. The National Trust would urge careful consideration of the impact that such a change would have on key facilities, services and infrastructure and how improvements can be funded without developer

contributions. The National Trust considers this critically needs to feed into any changes brought forward in the Planning White Paper.

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, the National Trust considers that the proposed right to change to residential use across Class E is likely to have far reaching implications for businesses, communities and Local Planning Authorities. The new Class E encompasses a diverse range of uses; which means that in seeking to introduce conversion to residential use across this class there is the potential for significant and wide-ranging impacts to arise on the nature of our cities, towns and our rural areas.

Whilst the National Trust accepts it would create residential units; it conflicts with the ability to plan for retail and commercial uses and to direct such uses in a plan-led system to the most sustainable locations. It would bring in significant change in existing shopping/commercial areas, without any ability to control whether such a location is compatible with policy to do so.

If this new right is brought in through secondary legislation, ahead of changes to the plan-led system that are heralded in the Planning White Paper, it has the potential to create serious conflicts with a new system which looks to identify and plan renewal areas. Large numbers of units could change to residential use without the requirement for a planning application to be considered and it would prevent communities from engaging in shaping the future of their areas. Fundamentally, it would prevent areas from being actively planned/redeveloped as envisaged in the new planning system.

There has been a decline in town centres in recent years and we do not know what the new 'normal' economy will look like post Covid-19. The reimagining and redevelopment, where necessary, of our towns and cities and how places should look in the future should be inspired and led through local initiatives and the plan-led system. This cannot be effective if a wholesale permitted development right to convert to residential use is allowed to come forward.

The recent consultation on the Planning White Paper has an aspiration for beauty and improving the quality of design is a key part of the proposals. At a general level we are not sure how these aspirations will be secured through change of use where reusing shop fronts for residential may significantly impact the character and appearance of a local area. It has the potential to create unsustainable residential developments in isolated places by creating poor quality housing in unsuitable locations, where potentially large numbers of light industrial estates, research and development complexes and out of centre retail parks/shopping centres all have potential to change under this right.

National Trust considers specific impacts would arise as follows.

Impacts on businesses

Retail, business and commercial uses are historically at the heart of every city, town & village in the Country, and whilst there are exclusions proposed for AONBs, National Parks and World Heritage Sites and a proposed prior approval process for ground floors in Conservation Areas, there would be no cap on how many commercial units could be lost to residential use through this proposal across the vast majority of the country. We consider this could seriously affect the supply of and variety of units available for businesses, which are vital for economic diversity.

The new Class E was only introduced on 1st September and so the flexibility introduced by the class has yet to make itself felt in real terms on the high street. The degree of change in commercial areas as a result, and indeed future change as a result of the Covid-19 pandemic, are not yet known.

Long before the pandemic, the high streets were grappling with structural change brought about by changing shopping practices and the growth of online retail (Portas "An Independent Review into the Future of our High Streets", 2011). We do not know at this point how severe the impacts of the Covid-19 crisis will be on the high street, nor how long lasting. Our concern is that whilst the new right would provide landlords/landowners with the opportunity to create residential units, this will be at the cost of existing businesses/ tenants, and particularly where residential values offer a higher return than an existing commercial use there will be pressure for businesses to be evicted. This would further accelerate change in the nature of the high street and impact the services available for local communities.

Ultimately, in central retail/commercial areas, we consider the introduction of the right is likely to undermine confident investment in the high street and it will reduce the scope for a business to plan effectively for recovery, with no certainty of whether it will still be at the centre of commercial activities. Stretches of inactive frontages will be created that will impact on the vibrancy of centres and this may be particularly noticeable in pedestrianised centres where there will be limited footfall.

In cases where owners of listed buildings struggle to find occupiers, due to the constraints on adapting an historic building, there may be areas where the majority of units switch to residential use in a street, leaving the listed building in an isolated commercial use or vacant; effectively, penalising the listed building from the flexibility that will be available elsewhere in the high street.

Whilst accepting the value that residential use can bring to centres by helping to support the vibrancy of the night-time economy and residential has brought in added diversity to areas, for example through the support for flats above shops (through existing permitted development rights), we firmly believe now is not the time to introduce such a fundamental change to the nature of the high street.

There is also the risk that the right disperses retail & commercial uses to other less sustainable locations, as businesses look to find premises to occupy rather than being at the focus of our towns and cities.

In rural locations, there are examples of many light industrial estates, out of centre business and science parks, where businesses benefit from being in a cluster of activities. These areas also

provide important rural employment opportunities. This proposal would allow wholesale residential uses in such areas without restriction or planning, potentially resulting in a significant loss of premises and limiting the scope for rural businesses to cluster together in such locations. Additionally, loss of child-care provision could occur as nurseries could be converted to residential, a use that often supports the viability of such locations.

Our submission to this consultation is that this right should not be introduced. Nevertheless if the government proceeds, then the National Trust considers there must be scope for a Local Planning Authority to consider the extent of change in commercial areas, whether that be town, city or rural centre or an out of centre location where identified as an existing employment area. This would allow such locations to remain the focus for commercial and business uses and as destination points for these important economic activities. The National Trust strongly considers Local Planning Authorities should have the ability for prior approval to refuse residential if they believe it would result in an unbalanced commercial environment being created or it would impact on the operation of existing businesses and viability of centres or the rural economy.

Impacts on Local Planning Authorities

Maintaining the vitality and viability of retail centres has been one of the fundamental pillars of the planning system in the face of out-of-town competition since the early 1980s. Whilst in many centres the balance of uses has been changing in recent years and this change on the high street is likely to be accelerated as we emerge from the current pandemic; maintaining the role of centres as the focal point for commercial, community and leisure activities will still be critically important and Local Planning Authorities will want to take a proactive and planned approach to managing this structural change, which is best undertaken we consider through the plan-led system. Introducing an uncontrolled right to change to residential will fundamentally undermine this process.

Whilst we note the intention is for a prior approval process for the loss of ground floors in Conservation Areas and there are an estimated 10,000 Conservation Areas in England (Historic England), there are many more towns, village and rural centres, as well as many local parades of shops in suburban locations providing important services without such designation, which will not be afforded the protection of the prior approval process. There is a clear risk of significant change in these areas where the loss of commercial uses would occur with resulting impacts on the accessibility of services for local communities.

The National Trust considers that time needs to be allowed for Class E to 'bed in' so that Local Planning Authorities can assess the impact of Class E on the high street, before introducing further change.

In primary shopping areas it has the potential to create long stretches of inactive frontages. In turn this may result in disinvestment and risks occupiers moving to edge or out of centre less sustainable locations (unless they too have converted to residential use). The Government should undertake economic modelling of the various scenarios in order to understand what the long-term impacts could be as there is no evidence presented in this consultation on what the wider implications will be from introducing this sweeping change.

Class E has the potential to seriously undermine the ability of a Local Planning Authority to be able to assess whether the location of uses are in the public benefit or whether a proposal would impact the focus of other strategies or investment as their ability to manage change in areas is removed.

In recent years, there has been increased interest in towns centres as important economic drivers and they are often the focus of public and private investment strategies, including Business Improvement Districts and funding initiatives by Government (for example the Future High Streets Fund) and other locally driven town centre regeneration initiatives.

The implications of potentially large areas becoming wholly residential needs to be considered as the proposal risks undermining town centres as the focal points for investment.

The NPPF directs Local Planning Authorities to use planning policies and decisions to create conditions in which businesses can invest expand and adapt (para 80); the National Trust considers there will be significant conflict in allowing unrestricted COU to residential to occur with plans to 'support economic growth'.

Furthermore, in edge or out of centre locations where there is land allocated for employment uses, for example, science parks and business parks which are attached to a number of Universities in the country, where the driver is to promote science and technology clusters, the proposed right raises the prospect of the loss of large numbers of units to housing in such locations (where sites are not protected by existing planning conditions/obligations). This would undermine the plan-led system and economic development strategies as well as conflicting with the NPPF, to avoid isolated homes in the countryside (para 79).

For Local Authorities there is the potential for the wholesale removal of substantial business rates across their area and it is not clear whether shortfalls would be made up by Council tax which would be levied on property, nor whether the New Homes bonus would apply.

Moreover, planning authorities will need sufficient resources to handle the prior approval process proposed which is not necessarily less time consuming than a usual planning application.

Impacts on communities

Whilst it is intended there will be a prior approval process to consider the loss of ground floor units in Conservation area, outside of these areas (and exclusions for AONBs National Parks and World Heritage Site) there is no protection for rural villages nor local parades of shops which perform a vital service to local communities providing facilities near to where people live. The loss of units in villages and local parades of shops, could simply devastate centres with consequential impacts on local communities being able to access facilities. Fundamentally, this would impact on the sustainability of settlements. This is not addressed by the new Class F which covers the retention of single remaining shops in a community [where no others exist within 1000m].

Whilst accepting there is the potential for homes to be delivered by the proposal, currently no affordable housing would be secured through this permitted development right. The government anticipates that there will be a significant increase on the 13,500 – 14, 500 homes per annum currently delivered by conversion, but none of these will create affordable homes or do anything to ease the housing crisis in this respect.

We note the Planning White Paper has proposed a new Infrastructure Levy to replace CIL and section 106 contributions. The Government has sought views through the consultation on whether the Infrastructure Levy would also apply to permitted development rights (including the proposed permitted development rights, if implemented), and the outcome of this consultation is awaited. If the new Infrastructure Levy applies to changes of use through permitted development rights, and not just the creation of new floorspace, then this could have a significant impact on developer contributions and affordable housing provision and could potentially go some way to addressing this matter.

Class E encompasses uses such as nursery, creches and day centres. These types of facilities tend to occupy smaller buildings and whilst on the face of it these might lend scope for conversion due to their size, position of windows and outside space; it could nevertheless result in the loss of childcare provision and vital services in areas where landowners seek to obtain a higher value for the land that comes through residential development values.

The proposal would allow the conversion of out of centre retail parks as well as light industrial estates and business/science parks in rural locations, where for the communities who occupy them, accessibility to services, doctors, schools and shops etc would be limited and will only be accessible by private car. The risk is that this creates housing in unsustainable locations. Furthermore, such housing may be located with unsuitable surrounding environments and in locations that have no access to accessible green space; for example, retail parks sited around motorway junctions located within a 'sea' of car parking. There will be noise impacts from surrounding uses arising in such locations and this is not currently able to be considered in the suggested prior approval process.

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	
No	
Don't know	X

If so, please give your reasons:

The National Trust believes that the Government should undertake an equalities assessment of the potential impacts of the proposed reforms, before legislating for them.

That said, the National Trust are concerned that the proposed changes have the potential to significantly reduce the range of local shops and services available locally and could therefore, disproportionately impact on those without access to a car or who struggle to access other modes of public transport.

Supporting public service infrastructure through the planning system

Q7.1 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 larger?

Agree	
Disagree	X
Don't know	

Please give your reasons:

The National Trust **DISAGREES** that the right should be amended as proposed without appropriate safeguards to provide for Local Planning Authorities to control potential impacts that are likely to arise from this increase in footprint across schools, colleges, universities and hospitals.

Whilst we consider the principle of development is likely to be acceptable on sites in existing use, many of these institutional buildings are in areas with mature gardens, parkland with established trees/hedgerows which provide valuable green spaces for their users. Such areas also contribute to the setting of the property and often to the green space of a local area and towards ecological networks. We consider allowing sites to maximise footprint up to 25% of existing buildings will result in significant intensification of a site, which will be at the expense of the local environment in which they are situated.

The current permitted development right for extensions to premises retains a cap on the extent of development that can be realised through the words '*whichever is the lesser*'. Whilst we can see that the introduction of the new right might work for modest buildings set on sites surrounded by areas of existing hard surfaces which may be able to accommodate an increase of 25% in footprint, this will not be the case for every location. In cases where there are large university complexes and colleges, which often occupy an extensive footprint of buildings applying this right, with only limited caveats/ restrictions risks adverse impacts arising as follows;

- Impacts on AONB, National Parks setting of World Heritage Sites arising from removal of landscaping in grounds of institutions, potential impacts on key views from higher buildings
- On the setting of Listed Buildings and Registered Parks and Gardens
- Impacts on Scheduled Monuments and risks to non-designated assets and cultural heritage (local lists)
- Impacts on the Character and Appearance of Conservation Areas
- Impacts on SSSIs
- Potential removal of veteran trees, woodland and greenspaces
- Impacts on ecological interests
- Impacts on the openness of the green belt
- Noise and disturbance to local residents nearby

Whilst in areas of Article 2(3) land the current right requires a consideration of materials; this would not be sufficient to control development of a sizeable scale, potentially up to 6m (or higher if allowed)

which could cause visual impacts and impacts on landscape and scenic beauty and heritage assets all of which have the highest protection in NPPF.

Whilst the preamble to this question suggests that school playing fields would continue to be protected, there is no reference to safeguarding archaeology and non-designated assets that may be present on a site, nor protection for SSSIs. Further, there is no indication whether other important limitations, that currently exist with Class M [General Permitted Development Order Schedule 2 Part 7] are to be retained;

For example, currently development is not permitted where development is within the curtilage of a listed building. This caveat is an important one as many schools, colleges and universities contain numerous heritage assets and it safeguards them from development that might adversely impact on their significance. Indeed, allowing this extension right to proceed without retaining this safeguard we believe would conflict with S66 (1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 to have 'special regard' to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

The current rights also have important limits to control impacts of extensions on neighbours, by excluding development within 5m of the curtilage of the premises and also in the case of schools, where land is used for residential purposes within 5m of that residential land. The National Trust is concerned that both of these have been omitted from this proposal and there will still be a need to protect the amenity for adjoining occupiers, more so if sites are to intensify.

Moreover, the perimeter of these sites may often have mature hedgerows and trees that are valuable for screening purposes, to contain visual impacts and to protect amenity for neighbours; by retaining a minimum of 5m to the boundary this provides some scope to ensure it can be retained. This can also provide an important buffer as many of these premises occupy green belt locations. However, we consider it would be a stronger safeguard to have a minimum of 10m required to a boundary to safeguard such interests if sites are to intensify significantly.

In broad terms, whilst the National Trust agrees that the expansion of these facilities is something that should be acceptable in planning terms where it would continue the institutional use of such complexes, this needs to be assessed against the above considerations. There also needs to be a suitable way to ensure that the 25% limit on footprint is not exceeded where expansion occurs incrementally. Enforcement measures may need to be considered where necessary.

Currently, the limited nature of the existing right is not controlled by a prior approval process and this is one area where we consider the use of the prior approval mechanism would be a good way to ensure that development could come forward, but in a measured and suitably safeguarded way. The National Trust considers the introduction of a prior approval process which would allow for the siting, design and external appearance of the building (s) to be determined by Local Planning Authorities could support the development of such sites.

However, exclusions must be retained to prevent development within the curtilage of a listed building in order to protect heritage assets, together with the suggested limits on development within boundaries in any rights introduced under this proposal.

In order to limit the burden of applications on authorities this process could be triggered for new development above a certain threshold.

Q7.2 Do you agree that the right be amended to allow the height limit to be raised from 5 metres to 6?

Agree	X
Disagree	
Don't know	

Please give your reasons:

The National Trust **AGREES** that an increase from 5m to 6m could occur, but this must be subject to the proposed safeguard that it is not within 10m of the boundary or the curtilage of a property. This limitation should provide sufficient certainty that screening around the perimeter of a property can be retained and the local amenity of neighbours protected.

Q7.3 Is there any evidence to support an increase above 6 metres?

Yes	
No	X
Don't know	

Please specify:

NO, the National Trust considers there would be significant concerns from allowing an increase above 6m, particularly if existing buildings within the property are lower in height, as this raises the prospects of visual impacts being an issue both within the site and beyond its boundaries. Allowing taller buildings within a site may also impact on cultural heritage (assuming the exclusion for development within the curtilage of a listed building is carried forward from the current right) where there are buildings important for local heritage, where taller buildings may impact on views (e.g. clock towers in schools, colleges etc).

More widely in or in proximity to World Heritage Sites and Registered Parks and Gardens which often have as part of their landscape design intention to 'borrow views' from their surroundings, taller buildings may impact on key designed views. This has the potential to be a significant concern if buildings above 6m under a permitted development right were to be allowed.

Q7.4 Do you agree that prisons should benefit from the same right to expand or add additional buildings?

Agree	X
Disagree	
Don't know	

Please give your reasons:

The National Trust **AGREES** that prisons could benefit from the same right to expand and add additional buildings, but the same concerns relating to widening the scope for schools and colleges

to extend will also apply to these sites; potential impacts are likely to arise around heritage, greenspace, nature conservation and to the amenity of neighbours all of which will need to be safeguarded. [see answer to 7.1 above].

Prisons, like schools, colleges and universities are complexes that vary in scale and complexity; from traditional prisons in urban settings to open prisons and young offenders institutions, with many occupying older Victorian buildings in more rural or suburban locations. In particular, a number of complexes contain listed buildings and buildings identified as contributing to local heritage (local lists) as well as many located in conservation areas and some in mature parkland settings. Whilst the principle of development will be acceptable, it will be important for the intensification of sites to be suitably managed by Local Planning Authorities in order to limit the potential for adverse impacts to arise. For prisons they may have particular requirements around lighting, security measures and boundary treatment and this may well exacerbate the visual impact of any extension/new build.

The National Trust considers this process is best undertaken by introducing a prior approval process for development to allow the Local Planning Authority to consider siting, design and external appearance of the building(s) and in order to limit the burden of applications on authorities this could be above a certain threshold.

As in the case of schools and colleges we consider the proposal must retain the exclusion on development within the curtilage of a listed building and the safeguards around height and distance to boundaries.

Q8 Do you have any other comments about the permitted development rights for schools, colleges, universities, hospitals and prisons?

Yes	X
No	

Please specify:

The National Trust is concerned that there are omissions in this section for the protection for Sites of Special Scientific Interest which appear as exclusions in other parts of the General Permitted Development Order (for example changes of uses of buildings, extensions to offices and in the recent amendments to permitted development rights in 2020). Significant development could occur on these institutional sites and where there are SSSIs, they should be excluded.

In addition, protection for ancient, veteran and notable trees is important as many complexes will contain such valued specimens and our concern is allowing development on this scale could risk loss of trees without a requirement for any consent where not covered by Conservation Areas or Tree Preservation Orders.

The existing exclusion for development within the curtilage of listed buildings must be carried through into the new provisions for to protect the setting of heritage assets and safeguards to control development impacting on the character and appearance of Conservation Areas, National Parks and World Heritage Sites (Article 2(3) land).

Many schools, colleges and universities (and prisons) occupy green belt locations and over the last 15 years or so many have expanded within the green belt and many have been identified in local

plans as 'major developed sites'. In such cases infilling is deemed acceptable under NPPF paragraph 145, but the test applied is that development must not have a greater impact on openness of the green belt than the existing development. There is a risk of significant conflict with the NPPF if the extension rights are extended to 25% of existing footprint of buildings is allowed without the safeguard to consider a prior approval process.

Q9.1 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?

Yes	X
No	
Don't know	

If so, please give your reasons:

YES, the National Trust does consider that there could be impacts and in the submission to this section our response is that the introduction of a prior approval process would be a suitable mechanism in order to manage the impacts associated with the expansion of schools, colleges, universities, hospitals (and prisons) as a significant scale of development is envisaged. We appreciate this would introduce some burden onto Local Planning Authorities and if this is supported through this consultation then there should be an appropriate fee for officer time to handle such proposals.

For businesses and communities, the expansion of such facilities within their existing sites may cause a requirement for additional parking, extra staff or visitors and the National Trust considers that above a certain threshold a Local Planning Authority should be able to consider the transport impacts of a proposal. Otherwise, there could be significant impacts on local communities as well as on the operation of businesses in close proximity to these sites.

It is unclear whether there might be wider demands on infrastructure arising from the extensions allowed and depending on the scale Local Planning Authorities should be able to apply an Infrastructure Levy in appropriate circumstances to manage highways and infrastructure requirements.

Q9.2 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?

Yes	
No	
Don't know	X

If so, please give your reasons:

The National Trust believes that the Government should undertake an equalities assessment of the potential impacts of the proposed reforms, before legislating for them.

Q10.1 Do you think that the proposed amendment to allow prisons to benefit from the right could impact on businesses, communities, or local planning authorities?

Yes	X
No	
Don't know	

If so, please give your reasons:

As outlined in our answer to 9.1 the National Trust considers that, depending on the scale of the development, there may be increased demands for staff parking following the significant expansion of prisons under this right. Some prisons are located in rural locations where there may be an increase in vehicle movements on less than suitable rural road networks, which has the potential to create an issue for local communities and for Local Planning Authorities in trying to manage increased pressure for better infrastructure. The application of Infrastructure Levy payments for this permitted development right could help to address this point as well as the opportunity to consider the transport impacts arising from a proposal above a certain level of development which we consider is best allowed for in a prior approval process.

Q10.2 Do you think that the proposed amendment in respect of prisons could give rise to any impacts on people who share a protected characteristic?

Yes	
No	
Don't know	X

If so, please give your reasons:

The National Trust believes that the Government should undertake an equalities assessment of the potential impacts of the proposed reforms, before legislating for them.

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	X
No	

Please give your reasons:

YES, the National Trust accepts the proposal regarding the faster delivery of public service applications, as set out in paragraphs 43 and 44 of the consultation document but would request

that the projects to which this new fast-track service is to apply must be clearly defined in any amendments to the Development Management Procedure Order.

The National Trust would also request clarification is provided as to what is meant by part of the last sentence of paragraph 44 which states “...*supporting a faster appeals process if decisions are not made or applications are rejected.*” Clarity is sought on whether the Government intends an automatic lodging of appeals after 10 weeks if a decision has not been made or an application is rejected or a fast-track process within The Planning Inspectorate, akin to that in place for householder appeals. We are also unclear as to the role of the Secretary of State in this process and whether there will be a greater role for Central Government in the determination of these applications.

The National Trust has also noted that there is no intention to amend the current Town & Country Planning (Environmental Impact Assessment) Regulations 2017 to alter the determination period for public service infrastructure which falls within the scope of these regulations. However, applications which are subject to consideration under the Habitats Regulations Assessment could be determined under this fast-track procedure and we would therefore request that the need for pre-application consultation with the relevant Local Planning Authority, statutory bodies and other relevant organisations is emphasised in any supporting guidance or Order. This will ensure that the correct information is provided in support of the application and a swifter decision-making process achieved.

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:

YES, the National Trust is happy that this new faster process can apply to the facilities and institutions identified, but that this will need a clear definition as indicated in our answer to Q11.

The information contained in paragraph 54 seems to suggest that the right to access this fast-track process would be limited to those institutions which are publicly funded, rather than privately funded, however the National Trust would request that clear guidance is provided to ensure that there is no ambiguity as to what public service infrastructure projects fall within those definition as “principally funded by government”.

The National Trust considers that this is important as provision of education and healthcare facilities can often be as a result of developer contributions secured either through CIL or Section 106 Agreements. While the applicant for these developments is often the relevant education and healthcare provider it is not clear whether they would fall outside the definition proposed as they would not be principally funded by government. Furthermore, public service infrastructure is often delivered as a partnership between the public and private sectors and again it is not clear whether these proposals would fall within the definition of developments able to access this fast-track process. The National Trust would therefore suggest that there may need to be early transparency and agreement between a developer and the relevant Local Planning Authority (and possible

confirmation with the Secretary of State) as to whether a particular development proposal can access this proposed new faster determination process.

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

Yes	X
No	

Please give your reasons:

YES, the National Trust considers that the shorter timescale for major applications of this type could be reduced to 10 weeks, but that faster decision-making will depend on effective pre-application consultation and community engagement. The National Trust considers that the shorter timescale should only be available for proposals where this has occurred.

The Planning White Paper sets out the Government's ambitions for a transparent planning system where democracy is moved forward, where new methods of engagement give neighbourhoods and communities a meaningful voice and improve the user experience. The current consultation paper hopes that the shorter timescale will encourage positive, pro-active, and effective pre-application engagement between all parties. It also states that it is likely that local discussions and engagement with local communities will have been underway for some time prior to the submission of a formal planning application. It expects applicants to engage with relevant statutory consultees. Responsibility for pre-application community engagement is not clearly set out.

The National Trust agrees that effective pre-application consultation and engagement is key to securing faster planning decisions while maintaining quality and public confidence. Rather than an aspiration, the National Trust considers that pre-application engagement, including community engagement, should be a mandatory requirement for access to the modified procedure. We also consider that applicants would be best placed to undertake such pre-application community and stakeholder engagement. This would integrate engagement in the design process in a more meaningful and timely manner, support innovation and make the process less reliant on the availability of skills and resources at local planning authorities. It would also diminish uncertainty over the confidentiality of pre-application discussions between prospective developers and planning authorities.

The statutory basis for compulsory pre-application community engagement by applicants is already established in section 61W of the 1990 Town and County Planning Act, as introduced by the 2011 Localism Act. This requirement can be applied to development of a description specified in a development order. The order can also specify cases in which the requirement does not apply. To date, the requirement has been introduced in relation to certain wind turbine proposals.

In addition to changes to the NPPF suggested in the consultation, accompanying advice could be set out in Planning Practice Guidance, covering such matters as who is responsible for such engagement, how it should be carried out and how it should be reported in a subsequent planning application.

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

Yes	X
No	

Please give your reasons:

YES, the National Trust accepts that a shorter minimum consultation period might on occasion help with swifter decisions, while noting that many applications are determined within 8 weeks under a 21-day minimum consultation period. We are concerned at the potential effect of this reduction on consultees and public engagement, particularly if it was intended to be introduced to a wider range of applications. We therefore consider that it needs to be limited solely to public service applications where there has already been effective pre-application consultation and community engagement.

In addition, we suggest that the minimum consultation period should be extended when it runs across Christmas and other holiday periods. We are open to whether this should be covered by legislation, policy, or practice guidance.

The Planning White Paper sets out the Government's ambitions for a transparent planning system where democracy is moved forward, where new methods of engagement give neighbourhoods and communities a meaningful voice and improve the user experience. The current consultation paper hopes that the shorter timescale will encourage positive, pro-active, and effective pre-application engagement between all parties. It also states that it is likely that local discussions and engagement with local communities will have been underway for some time prior to the submission of a formal planning application. It expects applicants to engage with relevant statutory consultees. Responsibility for pre-application community engagement is not clearly set out.

The National Trust agrees that effective pre-application consultation and engagement is key to securing faster planning decisions and enabling a shorter minimum consultation period within the application process, while maintaining quality and public confidence. Rather than an aspiration, the National Trust considers that pre-application engagement, including community engagement, should be a mandatory requirement for access to the modified procedure. We also consider that applicants would be best placed to undertake such pre-application community and stakeholder engagement. This would integrate engagement in the design process in a more meaningful and timely manner, support innovation and make the process less reliant on the availability of skills and resources at local planning authorities. It would also diminish uncertainty over the confidentiality of pre-application discussions between prospective developers and planning authorities.

The statutory basis for compulsory pre-application community engagement by applicants is already established in section 61W of the 1990 Town and County Planning Act, as introduced by the 2011 Localism Act. This requirement can be applied to development of a description specified in a development order. The order can also specify cases in which the requirement does not apply. To date, the requirement has been introduced in relation to certain wind turbine proposals.

In addition to changes to the NPPF suggested in the consultation, accompanying advice could be set out in Planning Practice Guidance, covering such matters as who is responsible for such engagement, how it should be carried out and how it should be reported in a subsequent planning application.

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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	

Please give your reasons:

The National Trust does not wish to provide a response to this question.
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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:

<p>YES, as the National Trust has set out in our responses to Q13 and Q14, we consider that pre-application consultation and engagement by the applicant should be mandatory for proposals submitted under the modified process. This proposal has potentially wider scope, as it would include schemes that are too small for the modified process as well as those for which EIA is required, which are also outside the scope of the modified process.</p> <p>The National Trust agrees with the suggested extension of the policy in paragraph 94 to other public service infrastructure projects. However, we consider that achieving a proactive, positive and collaborative approach is also dependent on the actions of the applicant. In parallel with the change proposed in the consultation paper, further emphasis should be given to policy in paragraph 43 of the Framework (applicants having early discussions about information requirements with the local planning authority and expert bodies) and to policy in paragraph 128 (applicants working closely with those affected by their proposals to evolve designs that take account of the views of the community).</p>
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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:

YES, the National Trust considers that where pre-application engagement has indicated a S106 obligation will be required for development in respect of the public infrastructure projects, it would assist the transparency of the planning process for this to accompany the planning application in draft form. This is also likely to curtail the time period post decision for completion of such matters.

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:

YES, the National Trust suggests that the Secretary of State issues a statement saying that they should be a priority and provides Local Planning Authorities with enough resources to deal with them quickly.

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:

The National Trust suggests that the Government should carry out an equalities impact assessment. As currently framed, there is be some concern on the effect of the shorter consultation period on some people, particularly those with less access to digital technology.

With the introduction of mandatory pre-application consultation and engagement, as we have suggested, we consider that the proposals would be unlikely to give rise to impacts on people who share a protected characteristic.

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:

The National Trust **AGREES** that some permitted development rights will no longer be needed as a result of the introduction of Class E (category 1). We also agree that some rights will not require amendment (category 2).

As set out in answers to questions Q1 to Q6, the National Trust does not agree with the proposals for the Class E to residential permitted development right which are also proposed in this consultation. We therefore welcome the recognition in category 3 that the proposed Class E to residential right may not be introduced.

It would have been helpful for Annex A to identify which rights are considered to come within which category. Some of the permitted development rights listed in Annex A do not have an obvious connection with the introduction of Class E per se, for example, Part 1 dealing with development within the curtilage of dwellinghouses; Part 2, minor operations; Part 6, agriculture and forestry; and Part 11 heritage and demolition. It would be helpful to have an explanation of why they are there and what is proposed.

Q19.2 Are there any additional issues that we should consider?

Yes	X
No	

Please specify:

Many of the permitted development rights to be reviewed contain exclusions, for example relating to conservation areas, listed buildings and their curtilages, National Parks and AONBs, World Heritage Sites, Scheduled Monuments and SSSIs. The National Trust considers that a precautionary approach should be taken that incorporates all relevant exclusions into the revised Permitted Development Rights. Where development is not permitted through a permitted development right there is, of course, always the option of applying for planning permission.

Consideration should be given to whether the rights should relate to all uses within the new Class E or should be referenced to sub-categories within the Use Class.

The review should attempt to resolve some of the paradoxes arising from the potential for shops to move between Classes E and F2 depending on what happens to another shop within 1000m and whether they are “mostly selling essential goods.” (The paradoxes being that a shop potentially changes use class from E to F2 or F2 to E because of another shop opening or closing or changing the balance of what it sells). Doing so in a way that is workable while protecting local shops mostly selling essential goods will be challenging.

The review should continue to enable changes of use of hot food takeaway (previously class A5 but now sui generis) to retail use.

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	
Disagree	
Don't know	

Please give your reasons:

The National Trust does not wish to provide a response to this question.

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

Agree	
Disagree	
Don't know	X

Please give your reasons:

It is difficult to argue with a broad approach that revision of these rights requires careful consideration. The consultation is unfortunately lacking in any specific proposals about what is intended for any particular permitted development rights. Without the detail, we have to question the point of this consultation.

As set out in our response to Q19.2, the National Trust considers that a precautionary approach should be taken that incorporates all relevant exclusions into the revised permitted development rights. Many of the permitted development rights to be reviewed contain exclusions, for example relating to conservation areas, listed buildings and their curtilages, National Parks and AONBs, World Heritage Sites, Scheduled Monuments and SSSIs.

The National Trust also suggests that consideration be given to whether the rights should relate to all uses within the new Class E or should be referenced to sub-categories within the Use Class.

Where development is not permitted through a permitted development right there is, of course, always the option of applying for planning permission.

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

Yes	X
No	

Please specify:

With the revisions discussed in this consultation, and the potential for additional revisions as part of the planning reform agenda, there will soon be more than 20 amending documents to the 2015 General Permitted Development Order. A consolidated order would help make the provisions more accessible.

Accessibility can also be improved by visual guides and plain language guides, although the complexity of some of the measures now in place may make this challenging.

A more comprehensive review of permitted development rights will be necessary as part of the reforms proposed in the Planning White Paper, with the introduction of growth, renewal and protected areas. We would welcome a more meaningful consultation process when this happens.

End of survey

You have reached the end of the consultation questions. Thank you for taking the time to complete them and for sharing your views. Please note that you will not receive an automated email to confirm that your response has been submitted.

After the consultation closes on 28 January 2021 we will consider the responses we have received and publish a response, in due course.