

CIH response to MHCLG consultation on supporting housing delivery and public service infrastructure

Introduction

CIH welcomes the opportunity to respond to the Government's consultation on [supporting housing delivery and public service infrastructure](#). Our general comments below and response to the detailed questions which follow, relate to Section 1 of the consultation document which is concerned with 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.

We are undoubtedly in a period of great change for our high streets and town centres and there is certainly a strong case to be made for flexibility. We also strongly agree that we need more homes. However, we do not consider that expanding permitted development rights is the way to tackle either of these issues. **We are concerned that these proposals risk creating a scenario where there is a lack of control for local planning authorities (LPAs) to ensure the delivery of the right homes in the right places.**

We do not dispute that there is a role for residential uses in high streets and town centres in certain locations, and we agree that a mix of uses in the right location can create a vibrancy, footfall, and a positive environment to live in. However, these proposals would impact directly on LPAs abilities to 'plan' to meet their specific local needs including new homes to higher accessibility standards, to meet current and future demographic needs and would decrease the public's ability to have their voices heard. **We also believe that these proposals risk delivering poor-quality homes that undermine people's health, well-being, and quality of life.** [MHCLG funded research](#) in 2020 into quality standards of homes delivered through permitted development rights (PDR) concluded that such conversions create "worse quality residential environments". Whilst we acknowledge and welcome that since the publication of this research the government has brought forward legislation to ensure that homes delivered under PDR must meet the nationally described space standards and provide for adequate natural light, these are basic minimums and not standards for quality. The extension of PDR proposed, despite the prior approval matters described, risks the creation of yet more not fit-for-purpose, inadequate housing. In light of government's own focus on design and beauty set out in the Planning White Paper '[planning for the future](#)', we urge the government to consider again the quality and residential amenity of homes which will potentially be created by the

proposed extended PRDs. **We consider that these proposals risk creating many more poor quality and poorly located homes, in direct contradiction to the government's own aspirations for quality and design.**

In addition, a key concern for CIH is that there is no reference in the consultation document to Section 106 (s106) or Community Infrastructure Levy (CIL) contributions. Whilst brief reference is made to views being sought in the Planning White Paper on whether the proposed Infrastructure Levy would also apply to PDR, this is some way off and the changes proposed in this current consultation are timetabled for later in 2021. Most permitted development schemes do not make contributions via s106 or CIL. [Research by Shelter](#) estimates that that urban authorities have missed out on over 10,000 affordable homes between 2015-16 and 2017-18 alone. It is very important that permitted development schemes do not sidestep contributing to much needed affordable housing, schools, open space, and other vital social infrastructure for their local area and residents, particularly if the number of homes created is substantial (which without a size limit on buildings it could be). **There is a real risk if the proposals go forward as planned that we will see many homes being created in areas without the necessary infrastructure and facilities to support them, and with no requirement for at least a proportion of those homes to be affordable.**

CIH would welcome the opportunity for further engagement and involvement as the proposals progress.

Responses to detailed questions under Section 1

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)?

No, we do not agree. As well as providing the potential for entirely unsuitable buildings to be converted in this way, this could generate a great number of homes which then make no contribution through s106 or CIL. This will place a huge burden on existing and future local communities as these large numbers of additional homes will be being created without the necessary additional infrastructure and facilities to support them.

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?

Yes, we agree that the right should not apply in the instances listed but consider that these limitations do not go far enough. This 'blanket' approach for these

proposals is inappropriate. Whilst there may be some places where a change of use to residential could be beneficial and positive, there will be many where it is not. Notwithstanding the list proposed where the right would not apply, these proposals to deregulate in this way entirely miss the nuances of location which exist, and which can be addressed with appropriate action by LPAs.

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

We do not agree that the right should apply in conservation areas or anywhere else.

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?

We do not consider that the proposals are clear in respect of what the impact is to be assessed in relation to conservation areas specifically. It is not clear if it is the impact on the historic interest of the conservation area, the impact on vitality and other retailers, the impact on local amenity, or the impact on character and appearance. Regardless of conservation area status the loss of ground floor uses to residential could arguably impact on all these things.

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?

If these proposals go forward, we do consider that those matters set out in paragraph 21 should be considered in a prior approval. However, it is important to recognise that this will place greater scope, complexity, and weight on the prior approval process. We are concerned that this will result in a situation where prior approval is no less onerous than planning applications for an LPA but without the associated fee, underpinning framework and benefit to local communities.

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

We do not consider that the prior approvals to ensure appropriate living conditions for residents and to ensure homes are in suitable locations are extensive enough. Protecting future residents from heavy industry is undoubtedly important but is setting the bar incredibly low and fails to consider so many other elements which are so important to how we experience 'home'. These include access to greenspace and local community facilities, and even pavements to walk on. Despite the justification for the proposals being related to high streets they will, in fact, apply to every retail park, business park, gym, crèche, nursery or light industrial unit in England. The accessibility and adaptability of the homes created must also be considered. Will a converted shop, gym or creche be able to provide suitable access for disabled or older residents? This reinforces more than ever the

need for a [Healthy Homes Act](#) that would establish a framework to require all new homes to be of decent quality.

In addition, neither affordability nor climate mitigation are mentioned. These are elements which need to be considered, but they cannot be adequately evaluated through the prior approval process as explained in our answer to question 3.1.

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

If this the proposed PDRs go ahead then a fee per dwelling should be applied.

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

No, particularly with the cap this seems insufficient in comparison to the cost for a planning application for residential development.

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?

The proposals make no mention of developer contributions. We see this as very concerning, as large numbers of dwellings could be being created without the necessary infrastructure and facilities to support them, and with no requirement for a proportion of those dwellings to be affordable. Developer contributions play an incredibly important role in helping to ensure that the impacts of development are appropriately mitigated and that the right infrastructure is in place to support it. S106 is currently a major mechanism for delivering new affordable homes, particularly homes for rent. In 2018 - 2019 nearly half (49 per cent) of all affordable homes delivered were funded through s106 (nil grant) agreements. Sixty-six per cent of new affordable homes in 2018 - 2019 were for rent, including social, affordable and intermediate rent ([National Statistics, Statistical Release, November 2019](#)). [Research](#) also shows that we need 145,000 new affordable homes a year to meet need, including 90,000 at social rents. It is vital that we do not lose valuable opportunities to provide the homes we need so badly.

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, CIH considers that the proposed rights could impact on businesses, communities, and local planning authorities as outlined below.

Businesses

We are concerned that where town centre uses have been hit by the pandemic but have the potential to be viable again in the future, they could be 'flipped' to residential because of potentially higher rental value, thus preventing future opportunities for businesses in these locations. When our high streets are in such a precarious situation, we need more planning, support, and innovative solutions for them, rather than deregulation in this manner.

Communities

The planning white paper in 2020 stated that the government wants to give communities a more meaningful voice in the future of their areas. However, these proposals would mean that the role of land use planning, and therefore public opportunity to comment meaningfully on the plan making process, would largely be swept away by PDR. The public's right to comment on prior approval applications is also much more limited than for planning applications.

Also, as noted in our answer to question 5, with no contribution to s106 or CIL these conversions to residential will have impacts on both the communities they create (having potentially insufficient community provision) and existing communities (whose community resources will have to be shared with new residents and may be insufficient for this).

Local planning authorities

The proposed right will also impact greatly on LPAs' ability to plan for the needs of their communities. Land use planning will be side stepped as will the ability to ensure the necessary community infrastructure through development contributions (including for affordable housing to meet local housing needs).

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?

A planning system that does not enable local authorities to 'plan' to meet the needs of their local communities, will inevitably have a negative impact on people with protected characteristics. [Guardian investigations](#) have highlighted how the substandard homes created by permitted development do not meet the sometimes specialist needs of the people who end up living there including families who are homeless. The proposed changes, risk more people (including people who share protected characteristics) being forced to live in this way. In addition, we must seriously question how disabled and older residents might live well in these conversions. How will accessibility and adaptability be ensured?

About CIH

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