

<b>Report to</b>	Sustainable Development Panel	<b>Item</b>
	21 January 2021	
<b>Report of</b>	Director of place	<b>5</b>
<b>Subject</b>	MHCLG's supporting housing delivery and public service infrastructure consultation	

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## **Purpose**

To consider Norwich City Council's response to the supporting housing delivery and public service infrastructure consultation.

The Ministry of Housing, Communities and Local Government is currently seeking views on the proposed measures to support housing delivery, economic recovery and public service infrastructure. There are three parts to the consultation which are as follows:

Part 1 – A proposed new permitted development right for the change of use from commercial, business and service use to residential

Part 2 – Measures to support public service infrastructure through the planning system

Part 3 – The approach to simplifying and consolidating existing permitted development rights following changes to the Use Classes order.

## **Recommendation**

To endorse Norwich City Council's response to the supporting housing delivery and public service infrastructure consultation.

## **Corporate and service priorities**

The report helps to meet the corporate priorities of a healthy organisation, great neighbourhoods, housing and environment, and inclusive economy and people living well.

**Financial implications:** None directly

**Wards:** All wards

Cabinet member: Councillor Stonard – Sustainable and inclusive growth

## **Contact officer(s)**

Joy Brown, Senior Planner (Policy), 01603 989245

## **Background documents**

None

## Report

### Introduction

1. The government is currently consulting on changes to permitted development rights. There are three parts to the consultation which are as follows:
  - a) a new permitted development right for the change of use from commercial, business and service use to residential to create new homes
  - b) measures to support public service infrastructure through the planning system
  - c) the approach to simplifying and consolidating existing permitted development rights following changes to the Use Classes order.
2. The consultation runs from 3 December 2020 to 28 January 2021 and the consultation document can be found [here](#).<sup>1</sup>

### Background

3. The MHCLG consultation document outlines how that the purpose of the planning white paper is to set out the longer-term ambitions of the government, but at the same time, the government wants to explore more immediate changes in order to provide greater planning certainty and flexibility to ensure that planning can contribute to some of the immediate challenges that the country faces including supporting the economic future of our high street and town centres, supporting jobs and the faster delivery of our schools and hospitals.
4. The consultation document goes on to say that changing consumer behaviour has presented a challenge for retailers particularly with a shift to online shopping. This trend has been ongoing for several years now but has been magnified by the COVID-19 pandemic and in town centres in England there has been a net reduction of 5,350 units in the 12 months between June 2019 and June 2020. The government wants to support town centres and high streets in adapting to these changes to become thriving, vibrant hubs where people live, shop, use services and spend their leisure time. Therefore, in order to provide greater flexibility and enable businesses to respond rapidly to changing market demands, the government introduced a new planning use class (Class E) in September 2020. The commercial, business and service use class includes uses generally found on the high street such as shops, banks and restaurants and broadens it to encompass a wider range of uses such as gyms, crèches and offices. This provides greater flexibility and means that planning permission is no longer needed to change between such uses.
5. The government is now proposing that where there is a surplus of retail floorspace, residential development will help to diversify and support the high street. In their view, it will create housing in sustainable locations and will make effective use of existing commercial buildings, bring additional footfall from new

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<sup>1</sup> <https://www.gov.uk/government/consultations/supporting-housing-delivery-and-public-service-infrastructure>

residents and assist in the wider regeneration of town centres and other locations. The government is therefore proposing that a new national permitted development right is introduced which allows the change of use of all premises that fall within the commercial, business and service use class to residential use.

6. Separately the government also wants to ensure that planning supports the faster delivery of new schools, hospitals and other public service infrastructure developments and in part 2 of the consultation it is proposed to amend existing permitted development rights to allow schools, colleges and universities, hospitals and prisons to expand and adapt their buildings without the need to seek planning permission.
7. The government also wants to speed up decision making on planning applications for larger hospitals, schools, further education college and prison development and are looking at having a faster planning application process for these types of development.
8. Finally part 3 of the consultation seeks view on the proposed approach to the consolidation and simplification of some existing permitted development rights, including those which provide for change of use between use classes.
9. Further details regarding each part of the consultation along with the proposed Council response is set out in the following sections.

### **Part 1 - Supporting housing delivery through a new national permitted development right for the change of use from the commercial, business and service use to residential**

10. In September 2020 the government introduced the new commercial, business and service use class (Class E) which comprises the following:
  - a) Retail
  - b) Sale of food and drink where consumption is mostly undertaken on the premises
  - c) For the provision of the following services principally to visiting members of the public
    - (i) Financial services
    - (ii) Professional services
    - (iii) Other services which are appropriate to provide in a commercial, business or service locality
  - d) Indoor sport, recreation or fitness
  - e) Medical or health services
  - f) Crèche, day nursery or day centre; and
  - g) For
    - (i) Offices
    - (ii) Research and development

(iii) Any industrial process

being a use which can be carried out in a residential area without detriment to the amenity of the area.

11. This replaces a number of the following use classes including retail (A1), financial and professional services (A2), restaurants and cafes (A3), Business (offices B1a, research and development B1b, industrial processes B1c), some non-residential institutions (D1) and some assembly and leisure (D2).
12. Having now introduced this new use class, the government wants to allow further flexibility by allowing all of these uses to change to residential use without the need for full planning permission. Current permitted development rights already allow shops, financial services and offices to change to residential although for shops and financial services there is currently a limit on the size of unit that can change to residential (no greater than 150sqm). It is proposed that this size limit is removed. It is also proposed that the requirement for a building to have been in that use since 2013 is removed.
13. As with the current system there would be a prior approval process and the matters for consideration will be as follows:
  - (a) Flooding
  - (b) Transport
  - (c) Contamination
  - (d) Impact of noise from existing commercial premises on the intended occupiers of the development
  - (e) Provision of adequate natural light in all habitable rooms
  - (f) Fire safety
  - (g) The impact on the intended occupiers from the introduction of residential use in an area the authority considers is important for heavy industry and waste management.
  - (h) The government has now also introduced a new requirement that all homes brought forward under prior approval will meet national space standards.
14. The permitted development rights would not apply to sites of special scientific interest, listed buildings and land within their curtilage, sites that are or contain scheduled monuments, safety hazard areas, military explosives storage areas and sites subject to an agricultural tenancy. It would apply in conservation areas; however, in recognition of the conservation value that retail frontages can bring to conservation areas the right would allow for consideration of the impact of the loss of the ground floor to residential.
15. The fee for considering prior approval applications for the change of use from commercial, business and service use to residential will be £96 per dwellinghouse, capped at a maximum of the fee for 50 homes. As a comparison, the fee for a dwellinghouse that requires full planning permission is currently £462 per dwellinghouse.

16. In terms of Norwich City Council's response, officers have significant concerns with the proposed introduction of permitted development rights for the conversion of all uses within class E to residential. Whilst the government have promoted this by suggesting that it will revitalise our town centres, make effective use of existing commercial buildings, bring additional footfall from new residents and assist in the wider regeneration of town centres and other locations, officers are of the view that the uncontrolled and piecemeal loss of town centre uses will actually be a huge threat to the vitality and vibrancy of our high street.
17. Norwich has seen a significant uptake of office to residential conversions under permitted development rights and the findings of a recent study into Norwich's economy has found that as a result, Norwich's office market is now in a fragile and vulnerable condition due to it reducing in size by 30% in recent years. Whilst the uptake of conversions from retail to residential has been a lot smaller, it is feared that this new permitted development right will see a lot more changes to residential. Encouraging residential in the city centre is a positive but this must not be at the expense of the future of our high streets.
18. The consultation document asks several questions and a proposed response is set out for each. In particular, officers would ask members to focus on question 5 which sets out why we the council does not agree with the introduction of these permitted development rights.

## **Proposed response**

**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)?

*Norwich City Council does not agree with the introduction of permitted development rights for the conversion of all uses within Class E to residential. However if the proposal to introduce these permitted development right is brought forward then there should be a size limit on the buildings that could benefit from the new permitted development rights. Without a size limit there could be the uncontrolled loss of some of Norwich's anchor stores which could have a significant impact upon the vitality of our high street.*

**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?

*Norwich City Council does not agree with the introduction of permitted development rights for the conversion of all uses within Class E to residential. However if the proposal to introduce these permitted development right is brought forward then the Council agrees that it should not apply in all cases set out within Q2.1.*

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

*Norwich City Council does not agree with the introduction of permitted development rights for the conversion of all uses within Class E to residential. However if the proposal to introduce these permitted development rights is brought forward then it should not apply within a conservation area. This would not necessarily prevent all businesses changing from class E to residential but it would enable the Council to fully assess the proposals under a full planning application and enable officers and Members of the planning committee to carefully consider the impact that such development would have upon the character of the conservation area and would ensure that piecemeal development does not erode it's special character in line with the objectives of the NPPF and local plan policies.*

**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?

*Norwich City Council does not agree with the introduction of permitted development rights for the conversion of all uses within Class E to residential. However if the proposal to introduce these permitted development right is brought forward then the Council's preference would be for all prior approval application to allow for the consideration of the impact of the loss of ground floor uses. The piecemeal loss of town centre uses at ground floor level is likely to result in residential interspersed with town centre uses which will affect the way that our high streets function.*

**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?

*Norwich City Council does not agree with the introduction of permitted development rights for the conversion of all uses within Class E to residential. However if the proposal to introduce these permitted development right is brought forward then the Council agrees that all the matters set out in paragraph 21 should be considered in a prior approval application in order to ensure that residential development is appropriate and of acceptable standards.*

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

*Norwich City Council does not agree with the introduction of permitted development rights for the conversion of all uses within Class E to residential. However if the proposal to introduce these permitted development right is brought forward then design and the impact of the loss of ground floor use to residential should also be matters for consideration. This would enable the Council to*

- a) assess the design of the proposal and enable the Local Planning Authority to consider the impact that development would have upon the character of our city centre conservation area and would ensure that piecemeal development does not erode it's special character in line with the objectives of the NPPF and local plan policies.*

- b) prevent the piecemeal loss of town centre uses at ground floor level which is likely to result in residential interspersed with town centre uses which will affect the way that our high streets function.*

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

*Norwich City Council does not agree with the introduction of permitted development rights for the conversion of all uses within Class E to residential. However if the proposal to introduce these permitted development rights is brought forward then this should attract a fee in order to cover the costs of determining the prior approval applications. A rate based on the number of dwelling houses is appropriate (see response to Q4.2).*

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

*Norwich City Council does not agree with the introduction of permitted development rights for the conversion of all uses within Class E to residential. However if the proposal to introduce these permitted development rights is brought forward then the fee needs to be set at a level higher than £96 per dwellinghouse. For prior approval applications, the matters for consideration are now increasing so much that the determination of the application does require significant officer time and £96 per dwellinghouse does not cover Council's cost. The cost per dwellinghouse should be more in line with that of full planning application.*

**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?

*Norwich City Council concurs that it is important to revitalise town centres and we agree that allowing more residential in town centres could help to create more sustainable centres as people can walk and cycle more easily to their local shops and services. However there is a need to consider the long term future of our high streets and not just to look at the present situation as a proposal such as this will inevitably change the nature of our high street forever. In the future we need our city centres and district and local centres to be vibrant places where people can meet their daily needs and socialise with friends and family. The piecemeal loss of retail and town centre units could be a huge threat to the vitality and vibrancy of our high streets as once units are lost to residential they are unlikely to ever revert back to a town centre use.*

*Within town centres, critical mass is so important and therefore there is a need for a planned approach. Norwich City Council acknowledges that it is likely that the nature of retailing will continue to change in the future and this will have an impact on the total amount of floorspace required. However the newly proposed permitted development right is likely to result in residential interspersed with town centre uses which will affect the way that our high streets function. This fragmentation of high streets and town centres is likely to lead to lower footfall rather than an increase in footfall.*



Norwich City Council does acknowledge that the proposal will help housing delivery as has been the case with office to residential conversions in Norwich but our concern is that this will be at the expense of the future of our high street. In terms of office to residential conversions, under permitted development rights, Norwich has seen significant uptake; however the findings of a recent study into Norwich's economy has found that as a result, Norwich's office market is now in a fragile and vulnerable condition due to it reducing in size by 30% in recent years ([Ramidus - 2020 - A Review of Office Accommodation in Norwich](#)).

Therefore instead the focus should be on encouraging residential at upper floor levels where there is often vacant or underused space or allowing Local Planning Authorities through their local plans to identify which parts of shopping centres may be acceptable to lose to other uses including residential. Extending permitted development rights will put the future of our high streets into the hands of the market; but unfortunately the market does not have wider public benefits in mind. Our high streets are going to change but this is best done in a planned and managed way and it is the Local Planning Authorities that are best placed to make decisions and identify and protect the key areas where high streets are vulnerable to the impacts and need to be supported.

Furthermore, Norwich City Council also has concerns as to what the cumulative impact will be of the changes to the Use Class Order in 2020 and these proposed changes to permitted development rights. The creation of class E will now mean that buildings within many of our existing employment areas can change to leisure, retail and other town centre uses without having to undertake a sequential test or impact assessment. This may mean that as well as the potential for large scale loss of 'town centre' uses from the city, there is likely to be a mass migration to out of centre locations which may have cheaper rents and are easy to access by car. If there is a significant uptake of residential within the city centre, the ultimate impact could be the loss of mixed and inclusive communities within town and city centres. Instead Norwich could be in a situation where people live in the city centres and travelling to out of centre locations to shop and spend their leisure time which not only undermines our local plan policies but is contrary to section 7 of the NPPF.

In addition many buildings that now fall within Class E uses are not in town centres and therefore Norwich City Council has concerns that the proposed permitted development rights could lead to residential development in inappropriate places. As part of a prior approval application the LPA would be able to consider noise and the impact on the intended occupiers from the introduction of residential use in an area the authority considers is important for heavy industry and waste management. However many of the buildings on our industrial estates are in light industrial or in sui generis uses and allowing residential adjacent to light industrial or sui generis uses could have further amenity implications.

Finally Norwich City Council would like to note that this proposal will result in the loss of affordable housing opportunities for Norwich and other local authorities as the proposed permitted development right will not trigger affordable housing or other section 106 planning gain payments.

## **Part 2 - Supporting public service infrastructure through the planning system (Providing further flexibility for public service infrastructure through permitted development rights)**

19. The government has set out how it is crucial that new public service infrastructure such as health and educational facilities and prisons are planned and delivered faster and better. The government goes on to say that one of the key issues is securing planning permission for new hospitals, schools, further education colleges and prisons which can often take significant time, leading to project delays and costs increases.
20. To ensure there is faster delivery the government is consulting on a package of proposals to streamline and speed up the planning process. Firstly, it is proposed to amend the existing permitted development right (Class M – extensions etc for schools, colleges, universities, and hospitals (Part 7 to Schedule 2 of the General Permitted Development Order)). Currently this is subject to size limits, limiting extensions or additional buildings to no more than 25% of the gross floorspace of the original buildings with a maximum cap of 100 square metres, or 250 square metres in the case of schools. It also restricts the height of new buildings to 5 metres. The right provides protection for nearby residents in that it restricts development close to the boundary and, in the case of schools, safeguards playing fields.
21. It is proposed to amend the right to allow such uses to expand their facilities by up to 25% of the footprint of the current buildings on the site at the time the legislation is brought into force, or up to 250 square metres, whichever is the greater. It is also proposed that the height limit is raised from 5m to 6m, except where it is within 10 metres of the boundary or curtilage. Playing fields would continue to be protected. Prisons do not currently benefit from these rights but it is proposed to introduce them.
22. Having considered the proposed changes in permitted development rights it is proposed that Norwich City Council provides the following responses to the questions.

### **Proposed response**

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 greater?

*Norwich City Council strongly objects to the impacts. For example if the University of East Anglia is allowed proposed amendments. Without a cap on the significant size of development permitted without planning permission, this could allow huge developments with to expand by 25% of its current size without the need for planning consent this would have significant environmental, highway and amenity issues which all need careful consideration under a full planning application.*

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

*Norwich City Council does not agree to raising the height from 5 metres to 6 metres. Depending upon the location, increasing the height could have significant design and heritage implications as well as amenity issues.*

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

*Norwich City Council would not support an increase above 6 metres. Depending upon the location, increasing the height could have significant design and heritage implications as well as amenity issues.*

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

*Norwich prison on Britannia Road is statutory listed. Provided that the new permitted development rights do not apply where development is within the curtilage of a listed building, Norwich City Council has no comment to make as the new right would not apply to any development within our authority boundaries.*

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

*The existing permitted development right does not allow for any consideration of design under a prior approval application (other than materials needing to have a similar appearance to those used for the original building). Therefore, it is the opinion of Norwich City Council that the new rights should not apply within conservation areas as development of a scale and height that could be allowed under permitted development could have a significant impact upon the character of the conservation area.*

Q9.1 Do you think that the proposed amendments to the right in relation to schools, colleges and universities and hospitals could impact on business, communities, or local planning authorities?

*Norwich City Council considers that the proposed changes could have significant impacts on existing communities. Allowing such large extensions to educational and health facilities without the Local Planning Authority being able to consider environmental, highway and amenity issues could be of significant harm. It is not clear from the consultation document whether prior approval will be required and if so what issues can be considered by the Local Planning Authority.*

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?

*No comment*

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?

*No comment.*

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?

*No comment.*

## **Part 2 - Supporting public service infrastructure through the planning system (A faster planning application process for public service developments)**

23. The government also wants local planning authorities to speed up decision making for public service developments requiring planning permission that are principally funded by government. For such applications it is proposed to reduce the statutory determination period from 13 weeks to 10 weeks. It is hoped that this shorter timescale will encourage positive, pro-active and effective pre-application engagement between all parties, including statutory consultees and committee members. To support faster decision making it is also proposed to shorten the statutory publicity and consultation periods for applications from 21 days to 14 days.
24. Norwich City Council does not intend to respond to each of the questions within the consultation document on this particular issue; however the council considers that it is important to make the following comment:

### **Proposed response**

*Norwich City Council can see the benefits of trying to speed up decision making for public service developments; however it is the Council's view that the justification for introducing this is based on the false assumption that it is the Local Planning Authorities that are causing delays to the decision making process. The delays that are experienced with this type of major application, are so often out of the control of the Local Planning Authority. Norwich City Council has a pre application advice service and we encourage all developers for major developments to go through this process but being able to commit to determining an application within 10 weeks would require all issues to be resolved in their entirety during the pre application process.*

*Furthermore Norwich City Council would also like to note that part of the consultation is also asking us to prioritise work; however this is being asked at a time when resources are being squeezed and we are being forced to make savings – the two things just don't tie up.*

## **Part 3 – Consolidation and simplification of existing permitted development rights**

25. As part of the consultation it is proposed to review and update individual rights that have been affected by the amendments to the Use Class Order. The review is a significant and complex exercise and will potentially require amendments to 49 individual rights.

26. Whilst it is not proposed to comment on every question within this section, officers consider that it is important to provide the following comment about the consolidation and simplification of existing permitted development rights.

### **Proposed response**

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

*Between March 2014 and October 2019 40 prior approval applications were approved in Norwich for change of use from office to residential which, if all built out, will result in the loss of 67,438 sqm of office space and will provide 980 new residential units. A recent study has found that the uncontrolled loss of office accommodation has left Norwich's office market in a fragile state ([Ramidus - 2020 - A Review of Office Accommodation in Norwich](#)) . In addition to the significant detrimental impact that it has had on Norwich's office economy, it has also created hundreds of homes which do not meet national space standards, have insufficient natural light, have no access to balconies or communal outdoor amenity space and have insufficient cycle storage provision. It is acknowledged that changes have been made to the prior approval application process and further matters can now be considered; but we still cannot get away from the fact that allowing residential units to be provided without full consideration of all material planning matters has and will continue to provide poor quality development and sub standard housing. Therefore we would ask that all permitted development rights to change to residential are repealed rather than consolidated and simplified.*