

Consultation on proposed commercial-to-residential permitted development right and on support for public service infrastructure

London Forum of Amenity and Civic Societies (London Forum) represents 120 civic and community groups across London. We are concerned that the outcome of permitted conversion to housing of existing Class E uses and services in almost any location could be:

Elimination of essential shops and facilities

Shops, banks, other financial institutions, lawyers, architects, accountants, financial advisers, creches, day nurseries, day centres, GP surgeries, health centres and indoor sports facilities could all have their premises converted without planning permission anywhere to homes which would reduce vibrancy, attractiveness, footfall and profitability in town and district centres. Reducing the critical mass of local facilities and forcing people to travel elsewhere for their day-to-day needs undermines the aim for creating, sustainable, walkable communities.

Homes from permitted conversions of poor quality and badly located

Shops and laundrettes converted under previous permissions were not satisfactory dwellings. Their appearance harms town centres and such random conversions should be prevented. Local policies for town centre development should apply. Building conversions to residential in locations remote from social services, facilities and public transport should not be allowed.

Conservation areas (CAs) were to be protected according the 'Planning for the Future' and they should not be included in any way in these proposed permissions, as their historic assets and significance should be retained with all changes controlled as in CA Management Plans.

Harm to town centres and planning of high street recovery post-Covid

Councils, with Business Improvement District groups and other partners, are best placed to decide what retail, service, commercial and other services should be provided in their town and district centres and where they should be best located for accessibility.

A planned approach, such as using the concept of renewal areas in the Planning White Paper would deliver the accommodation types and the service and facilities required locally.

Random and uncontrolled conversion of retail and commercial frontages to residential would harm the appearance, attractiveness, vitality and viability of high streets and district centres.

Government Towns and Future High Streets funds must be spent effectively under local authority control and these proposals would make that difficult. The recommendations of the High Streets Task Force will be ineffective if changes are to be determined by land owners.

Conflict with National Planning Policy (NPPF)

The NPPF policies were updated in 2019 and are respected for the planning framework they give for local planning. The proposed permissions would undermine NPPF objectives in:

- Section 2 'Achieving sustainable development' by economic and social objectives;
- Section 3 'Plan-making', which promotes a genuinely plan-led planning system;
- Section 6 'Building a strong and competitive economy';
- Section 7 'Ensuring the vitality of town centres';
- Section 8 'Promoting healthy and safe communities';
- Section 9 'Promoting sustainable transport' - limiting the need to travel (§103); and
- Section 12 'Achieving well designed places'

London Forum's overview comments and responses to the consultation questions follow.

Consultation on commercial-to-residential permitted development right

London Forum objects to proposed extension of permitted development to almost all buildings in Use Class E to residential. We believe there would be serious problems as follows.

Reduction in the required local shops and services

As consultation paragraph 12 explains, the proposals could result in uncontrolled loss of local services provided by banks and other financial institutions, lawyers, architects, accountants, financial advisers, creches, day nurseries, day centres, indoor sports centres, GP surgeries and health centres. Conversion of them without planning permission to homes could be anywhere, as paragraph 16 states that the right “applies everywhere in all cases, not just on the high street or in town centres.” The new proposals would reduce the necessary diversity of uses in and near to town centres and in local communities forcing more car usage.

Paragraph 17 of the consultation document applies the right to change use of part of a building but the prior approvals do not deal with consideration of the other uses within that building. This kind of “cannibalisation” of properties is likely to kill off non-housing uses.

Harm to the viability, vibrancy and attractiveness of local centres

The random pepper-potting of commercial frontages with dwellings as replacement uses would reduce attractiveness, vitality and footfall of high streets and local expenditure.

Possible surplus of retail floorspace which the consultation mentions in paragraph 5 may be units scattered in high streets and shopping parades not suitable in internal area or floor heights for some uses that could be introduced without permission, including new housing.

To maintain and increase the attraction of town centres by a range of commercial services and social infrastructure, the critical mass of activities needs to be retained. Stripping out employment in offices, shops and other commercial and social activities will be damaging to the future of centres. In the case of local ones, that could lead to their demise just at a time when we need neighbourhood centres and facilities to support walkable ‘shop local’.

Strengths of existing centres should be reinforced and developed but conversion of almost any premises to housing anywhere would undermine those objectives and could occur in a way that would defeat any plans for development of town centres and out-of-town locations.

Poor quality homes, unplanned and in the wrong places

The Government’s report, ‘Research into the quality standard of homes delivered through change of use permitted development rights’ (2020) concluded that permitted development rights create “worse quality residential environments”.

Since the first permitted developments were introduced, laundrettes and shops have not made satisfactory dwellings, with issues related to daylight and ventilation for single-aspect housing. Their incompatible frontages and waste bins stored on pavements are harmful and such changes should be under local authority control, not allowed with limited assessments.

There must be high standards in regulations for any Class E conversion to dwellings.

Permitted development of buildings in industrial estates and out-of-town retail and business parks to residential use could result in residents being far from shops and other social infrastructure and services and without public transport to reach them.

That would result in considerable use of cars by those who could afford them, with more pollution and road congestion, and serious social deprivation for people who could not do so.

Prevention of planning for high street recovery and development

There is a need for a local strategy by each local authority, dealing with existing problems and future requirements for renewing our town and local centres. These proposals would nullify any attempt to do that by allowing unsustainable cherry-picking small-scale housing schemes.

The Government states that its proposals are to give “planning certainty”. In fact, they would provide uncontrolled developer certainty and take away the right of local authorities, their communities and businesses, working in partnership, to determine the strategy and direction for the future for what should change and where in town centres and local neighbourhoods with the right mix of uses in the right locations for cohesive and walkable communities.

The aims of the proposals could be achieved through the current planning system, without more permitted development. Councils, their Town Centre Management teams, Business Improvement District partnerships, Chambers of Commerce, local traders and residents are best placed to decide what retail, service, commercial and other facilities should be provided in their town and district centres and where they should be best located for accessibility.

There may be higher priority for use of premises in Class E than residential in their location or Development Plan policies to require demolition and replacement for specific purposes.

The Government’s aim to bring more footfall to high streets by introducing additional dwellings would be best met by such a plan-led approach which could utilise the concept of renewal areas in the Planning White Paper for town and local centres in Local Development Plans.

Sites in town centres for planned future uses that will be required may not be available in the optimum locations due to permitted changes initiated by the owners of existing buildings, particularly with “no size limit on the buildings that can benefit from the right.” (paragraph 17).

Planned additional homes on the edge of town centres or by densification of existing housing would result in better support for high streets.

Many local authorities have current Article 4 Directions removing the right for conversions from office to residential in all or part of their area; those which in 2019 replaced the former Article 2(5) land are a case in point. These Directions should be carried over into the new regime and cover all conversions to residential

There is a strong argument for Article 4 directions where the permitted development rights would undermine the provision of those amenities and the future of local centres, because:

- a national policy may be inappropriate in different communities and property markets;
- whilst the E Use Class may assist centres to adapt, these rights to change could damage the future of these centres, and prevent some anticipated diversification and facilities which might now be outbid by housing; and
- change of use to housing is almost always a “one-way trip” – i.e. irreversible. It could precipitate the contraction of local centres.

We consider this approach as possible mitigation, but “selective removal” is a distraction from the main task of managing, controlling and strengthening our town and local centres. It is not our preferred outcome.

Strengthening town centres, but especially local centres, is critical to meeting future needs. A general nationwide policy encouraging developers to cherry-pick sites is a sub-optimal solution – providing very little additional housing whilst putting the future of these centres at risk by removing those premises that are easiest to extract. We need a strategy of adaptation and strengthening through more targeted and planned action.

Conflict with the necessary NPPF place-making policies and objectives

The proposed permissions in these proposals are incompatible with the fundamental aims of the NPPF for town and local centres

These new freedoms would undermine the objectives of the NPPF, especially:

- Section 2 'Achieving sustainable development' by economic and social objectives;
- Section 3 'Plan-making', which promotes a genuinely plan-led planning system;
- Section 6 'Building a strong and competitive economy (§83 d – not only in rural areas);
- Section 7 'Ensuring the vitality of town centres';
- Section 8 'Promoting healthy and safe communities';
- Section 9 'Promoting sustainable transport' - development focused on locations which are or can be made sustainable through limiting the need to travel (§103); and
- Section 12 'Achieving well designed places'

The NPPF encourages

- strengthening town and local centres by maintaining their role to meet the needs of their local communities, and
- reducing the need to travel, especially by car which could be defeated by permitted housing in unsustainable locations.

The additional permitted development proposed would reduce control of changes and planning for people's needs, contrary to NPPF paragraph 9 which requires that "Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area."

If these permitted development proposals are introduced, local planning authorities will no longer have the means to implement many of the recommendations in the current NPPF, especially the ability to meet all the requirements in its chapter 3. This will have especial significance for those authorities in the midst of preparing a new or revised Local Plan.

The NPPF's key policy for sustainable development - planning for the right uses in the right places – would be difficult if many of uses are outside the scope of planning control.

NPPF paragraph 9 requires that "Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area." The proposed additional permitted development could remove the facilities that currently meet the day-to-day needs of each area.

It is not clear how NPPF policies 182 and 183 would be amended to relate to these PDR proposals in covering 'agent of change' and land use. It is required at present that "The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land" and local authorities must "ensure that new development can be integrated effectively with existing businesses and community facilities". Those sound NPPF policies should continue and not be removed to accommodate these proposals.

Undermining of public confidence in planning by yet more permitted development

Communities would become disillusioned with the planning process and their participation would fall, contrary to the aims of 'Planning for the Future' for their increased engagement.

Comment on the ‘Introduction’ section of the consultation Part 1

London Forum supports the Government’s aim for “supporting the economic future of our high streets and town centres . . . to become thriving, vibrant hubs where people live, shop, use services, and spend their leisure time.”

However, as detailed in our comments above, that aim would be defeated by the proposed additional permitted development. The introduction of Use Class E laid the basis for uncontrolled and harmful conversions. Proposals in this consultation would worsen that.

This initiative is a one-size-fits approach which is incapable of targeting any of the problems, would not secure most of the claimed benefits and could be positively harmful to our town and local centres in London. Even if there were centres elsewhere which could benefit, that is not a legitimate reason for these universal permitted development rights.

London Forum queries evidence supporting the figure of 72,687 new homes in paragraph 10 (additional units achieved by permitted development rights from all uses to housing in the last five years). Details should be provided by location and previous use, isolating shops to housing, by local planning authority and how many were fit for occupation. The figure may be only of prior approvals granted rather than homes delivered.

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. A large residential block could result in overwhelming of local social infrastructure and public transport provision. It could be located at a greater distance than for easy walking distance to the facilities and services the occupants would require. That would add to the use of cars, contrary to policies to reduce the need to travel that way. It would be to the disadvantage of those living there without the means to buy or hire their own transport and who may not be able to cycle.

Large buildings may not be suitable for sub-division or conversion to housing and if changed to residential as permitted development could result in the same problems of homes with unsuitable layout, daylight and safety as happened with some past permitted conversions of office blocks. That is because the Government’s proposed Prior Approval evaluation criteria would be inadequate.

Q2.1 Do you agree 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.

Those special areas and locations are being harmed or eroded by development and need protection but also enhancement of their key values and purposes.

The harm to the intrinsic value status of the four World Heritage Sites in London has been questioned by UNESCO as a result of contravention of the protected views and other elements of their Management Plan.

The importance of them is confirmed in the document published on 7th June 2020 by the Government on the 'Costs and Benefits of UK World Heritage Sites'.

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

No. Conservation areas have been designated as “areas of special architectural or historic interest, the character and appearance of which it is desirable to preserve or enhance” (s69 Planning (Listed Buildings and Conservation Areas) Act 1990). They could be harmed by the proposed permitted development rights in that the ‘special interest’ and character and appearance of conservation areas and the historic buildings in them could be changed adversely including by inappropriate window or materials. That would be contrary to the 'Planning for the Future' proposals to put conservation areas into the Protected category to control changes to their historic assets and appearance.

The proposals for conservation areas are actually tighter than the present right for conversions from office to residential by introducing a provision relating to ground floor shopfronts. There are many different types of conservation area, and the argument in the third sentence of paragraph 19 may be valid in some, it may not be in others. Local planning authorities should have discretion to disapply the conversion right within conservation areas where the removal of shopfronts would not conserve or enhance the character or appearance of the conservation areas. To do otherwise would mean that the local planning authority would be failing in its statutory duty.

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?

No, stripping out shopfronts would fail to conserve or enhance the character and appearance of the conservation area. It would alter totally their vitality and viability and could tip the balance, strip out their character and condemn the community in them to be living in no more than a dormitory.

All changes in conservation areas should be in accordance with the Conservation Area Management Plan and other applicable Local Plan policies.

Matters for local consideration through prior approval

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?

No, not as they are described because they are inadequate in coverage of matters that need to be assessed.

Prior approval should cover the impact of changing ground floor uses to residential for the effect on surrounding buildings and businesses, historic assets, existing homes; the appearance of the building after conversion, facilities for waste collection and deliveries and the full range of adverse impacts on living conditions caused by surrounding and nearby uses.

The adequacy of the local social infrastructure to support any additional residential uses must be a matter for prior approval, as changes might need to be phased to be sustainable. The '5/10-minute neighbourhood' should be the aim. New housing within a remote industrial estate or retail park without easy access to those facilities should be avoided.

The primary concern should be the impact on the future vitality and viability on the remaining uses in the centre, especially considering whether the change of use to housing would have an adverse effect on those and on the immediately neighbouring commercial uses. The claims of the Government are that this measure “will help diversify and support the high

street”, “bring additional footfall” and “assist the regeneration of the high street”. So, prior approval consideration should include an assessment of the impact on those criteria.

Prior approval considerations relating to appropriate living conditions for new residents of noise, natural light and fire safety considerations are not enough. There should be prior approval topics for odours, light pollution, vibrations and air quality because the homes from permitted conversions could be adjacent to existing uses causing those adverse conditions.

Night time deliveries and collections, often popular with drivers and businesses, particularly supermarkets, can make life miserable for nearby residents.

In applying the prior approval that is proposed for suitable location, heavy industry and waste management nearby are not the only matters that should be assessed. Even light industry land in the vicinity may have frequent movements of lorries and other vehicles, particularly if used for the manufacture and supply of food and other goods or is a logistics and storage centre for break-bulk of freight and goods to be delivered.

There is concern that where change of use to housing adjoins existing noise-generating uses that this should not impose additional requirements to provide additional sound proofing on that use. The onus for sound-proofing should lie with promoter of the housing use. This should be a further prior approval requirement. This is currently covered in Policy D13: Agent of Change of the Publication London Plan 2020.

Paragraph 17 of the consultation document applies the right to change use of part of a building but the prior approvals that could be applied do not deal well with consideration of the other uses within that building. This kind of “cannibalisation” of properties, which is already being experienced in areas of high housing prices, is likely to kill off non-housing uses.

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

Presumably, if these changes are implemented, the local authority could apply conditions that are in its Local Plan, for example, control of construction work; the depth, area and use of basements, signage and illumination; frontages and set-back rules.

Applications for prior approval and fees

The application for prior approval would need to contain additional detail than floor plans if the extra prior approval considerations are applied that London Forum proposes in answer to Q2.

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?

Yes. The prior approval requirements would take resources to analyse that might be as much as for a full planning application even for a small site due to the complexities of its surroundings.

Also, it is unlikely there would have been all of the usual pre-application discussions.

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

No. That would be too low to cover the local authority work in assessing the application.

The fee should increase with the number of units above 50 and in mixed use schemes. These schemes, however, are unlikely to come forward under PD rights and are likely to involve redevelopment and require affordable housing.

The work necessary to assess the application by a case officer would not be covered by the small fee per dwelling suggested and that work would increase for large buildings and all that must be considered for plant, access, lifts, etc.

The land value uplift would be considerable for most conversions and fees should relate to development viability with infrastructure levy included. The latter should be paid before full completions and occupation of the new residential units.

The capping of the maximum fee does not seem to be a reasonable proposal.

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 new rights could hollow out successful town centres and other shopping parades of successful and important services of banks and other financial services, lawyers, architects, accountants, financial advisers, creches, day nurseries, day centres, indoor sports facilities, doctors' surgeries and health centres.

These PD rights are not limited to vacant premises but would apply equally to occupied units, as did the offices to residential rights. The diversity and flexibility introduced by the E Use Class would be lost or not realised, if the uptake is purely a reaction to the property value differential between a shop and a housing unit.

The new opportunities created by the E Use Class, the gyms, creches, GP surgeries and day centres and the anticipated benefits for our local centres from these uses will be crowded out before they can happen in areas covered by these proposals.

It could mean the removal of the 'corner shop', just as the pandemic and more home working has led to greater use and dependence on them and they have diversified their offer with such facilities as parcel delivery and receipt. 'Shop Local' has become a goal and serves a valuable purpose and should not be adversely affected by changes in Government policy proposed without full impact assessments.

In permitting Commercial, Business and Service use class to have movement between them and conversion to housing without the need for a planning application, the Government risks harming town centre economies and the ability of people to easily access the facilities and services they need.

These matters should be under the full control of local authorities to determine the changes that are appropriate and to refuse those that would undermine the future of our local centres and degrade an area.

All new conversions to residential should be processed as planning applications in the traditional way to ensure the homes are fit for habitation and do not adversely harm their surroundings nor have occupiers adversely affected by surrounding uses or lack of social infrastructure.

It is not clear how the NPPF's key policy for sustainable development - planning for the right uses in the right places – can be applied where changes between many of uses are outside the scope of planning control.

NPPF paragraph 9 requires “Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.” The proposed additional permitted development could remove facilities currently meeting day-to-day needs of an area.

NPPF policies 182 and 183 need to be amended to relate to these PDR proposals in covering ‘agent of change’ and land use, if these proposals are implemented. The NPPF words at present that “The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land” and local authorities must “ensure that new development can be integrated effectively with existing businesses and community facilities” are sound and should continue to apply.

Public Sector Equality Duty Assessment and impact assessment

This assessment should acknowledge that the proposals will have an adverse impact on local people, by depriving them of the ability to comment on, or object to, the loss of facilities that they may value.

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. The construction jobs mentioned in paragraph 25 will be short term ones, whereas a building owner taking advantage of the value uplift from conversion to housing could cause the loss of business jobs.

There would be an impact of lost revenues for business rates which are higher than Council taxes.

There could be harm to town centre economies and the removal of facilities that people need, including existing residents and those in new residential conversions.

The proposals could result in the uncontrolled loss of services of banks and other financial services, lawyers, architects, accountants, financial advisers, creches, day nurseries, day centres and health centres. That could happen anywhere because paragraph 16 states that the right “applies everywhere in all cases, not just on the high street or in town centres.”

The outcome could be loss of footfall, loss of expenditure by business uses and loss of vitality as a result of “blank” frontages.

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? If so, please give your reasons.

Yes. The proposals will have an adverse impact on all local people, by depriving them of the ability to comment on, or object to, the loss of facilities that they may value.

They could lose existing facilities they need or find themselves in buildings converted to homes far from social infrastructure, services, shops and public transport. That would adversely affect people on low incomes, those with disabilities, people suffering mental health issues from the effects of isolation and the elderly.

2. Supporting public service infrastructure through the planning system

London Forum supports the Government's aim for an ambitious investment programme to ensure our public services are world class.

Also, that decisions on their provision should be taken in the best timescales and have delivery expedited.

However, this whole section treats the planning process purely as a development management process and as if it were an undesirable burden on the providers of public infrastructure rather than a positive, proactive process that brings forward proposals for future infrastructure needs through a plan-led approach and as a means of engaging citizens in the way in which their community develops and its needs are met. London Forum rebuts this lack of recognition of the need to plan ahead.

The Government's aim should be to ensure that promoters of schools, colleges, universities, hospitals and prisons engage publicly and openly with the community at the earliest stage when they are considering expansion. They will have architects and other professionals working up the schemes, and if they were not secretive during that process obtaining full planning permission would be quicker.

London Forum considers that the proposed permitted development rights for additions to education, health and prison facilities are generally acceptable, but they are largely a stopgap approach to the future provision of important social infrastructure.

This should not be an excuse for continuing to avoid more positive and proactive planning for the future pattern of provision. For schools, we agree that playing fields should continue to be protected, but in dense urban settings.

Providing further flexibilities for public service infrastructure through permitted development rights

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?

Yes, but according to paragraph 39, no draft impact assessment is yet available to the public for consideration with this consultation.

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

Yes.

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

London Forum is not aware of any evidence for taller buildings, as their location and height would be determined, as required by the NPPF, in Local Plan policies for locations where tall buildings would, and would not, be suitable. The Rt Hon Robert Jenrick MP directed the GLA Mayor in December 2020 that such restrictions should be in the replacement London Plan.

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

Yes.

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

The size limits on permitted development may have unintended consequences. An institution that would benefit from a larger extension may artificially restrict its ambitions to qualify for what it sees as a simpler approval process.

The impact on surroundings and the lives of people living nearby to the expanded schools, hospitals and prisons will need to be properly assessed under the revised Class M rules with permitted development.

Play space within school sites should not be reduced below the required amount for the number of pupils. The consultation refers only to “playing fields would continue to be protected.” For many London schools, the playground is the only open space and needs to be protected.

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.

Increase in capacity within the Class M sites could result in extra demand on local public transport and that will need to be taken into account.

There could be noise and dust emanating from the sites during the construction which will need to be managed by conditions.

Unless there is provision for the handling of additional waste and deliveries there could be adverse impact on neighbouring homes and businesses.

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?

Yes. The bulk of prison buildings and the security provisions that are necessary could make them oppressive to neighbouring residents and to some businesses.

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.

A faster planning application process for public service developments

London Forum supports the statement in paragraph 43 that “The government believes that it is right for local planning authorities to make planning decisions in the normal way on proposals for more substantive new public service developments in their area, particularly those involving new sites. These new developments will impact on the local area, and it is important local communities are able to express their views.” It is expected that principle will apply after the proposals in ‘Planning for the Future’ are finalised.

London Forum agrees that “Public service providers delivering these key public service developments will need to engage with local planning authorities at an early stage, so that the right information is available to enable decisions to be made more quickly.” Early engagement must be open for participation by local communities and other stakeholders.

What public service developments should be in scope?

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.

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.

Faster decision making

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

No. The statutory timetable of 13 weeks (or 16 weeks in the case of EIA (Environmental Impact Assessment) development) would be best for such developments.

It is better to enforce the current standard timetable for such developments, rather than change it. Three weeks would make little difference but could cause extra pressure on local authority staff which could lead to some aspects of the application assessment being missed or not fully conducted. It could result also in local people feeling that insufficient consideration had been given to any points they had raised, harming their perception of the fairness of the planning system.

Any failure to conduct a full and accurate assessment could result in a development that would be harmful in its location and lead to community concern about the decision-making process.

Speeding up the planning process for public service developments will, unless resources are increased for local authority planning departments and the Planning Inspectorate, mean prioritising them over major private sector developments, such as big housing schemes or industrial premises. This may be right, but is not self-evident, and the Government must explain and justify it before taking this proposal forward.

Consultation

Q14. Do you agree to minimum consultation/publicity period being reduced to 14 days?

No. The proposal to shorten the statutory publicity and consultation periods for such applications is not supported by London Forum unless “extensive prior engagement with the local community” (paragraph 63) can be demonstrated to have been carried out.

Paragraph 56 of the consultation document includes the sentence “Given the nature and importance of these proposals for development, 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.”

The phrase ‘it is likely’ is nowhere near good enough; it should be a non-negotiable requirement for these discussions and engagement to have taken place before a full planning application is made and to be reported in the documentation submitted with the application. New techniques make such discussions and engagement easier than they used to be. With public projects there are not the considerations of commercial confidentiality that are claimed to prevent early consultation on private sector projects.

It is not considered that such major developments are in any way like those covered by ‘Permission in Principle’ which the consultation mentions.

Reducing from 21 to 14 days the period for representations on applications after submission smells of desperation. It will simply infuriate ordinary citizens, who will see it as a way of stifling their voice. It may impact particularly on people with protected characteristics - those with mental impairments or sight problems may require longer than others to have the implications of complex proposals explained to them. These people are unlikely to have been previously engaged in any consultation, so reducing the consultation period will doubly disadvantage them.

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 it anticipates making a decision?

Yes, if this question, in referring to “these developments”, relates to extensions to education, health and prison facilities. The local community, other stakeholders and statutory consultees should be informed at the same time as the Secretary of State, with links provided to all the documentation, including reports on pre-application negotiations.

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. However, there should be open pre-application consultation with local authorities and communities for these public service developments and local authorities should be funded for the full costs of the work involved in each case.

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

Consultation paragraph 67 is important. Our experience is that on major developments it is frequent for changes to the approved application to be sought in advance of or during construction. These may be minor, and easily granted, but they may make significant changes which need proper public consultation.

Section 73 and Section 96A applications to amend permissions can be to change the height, mass, orientation and access of a building or facility and are, in our experience, not always “minor”.

In the proposed additional monitoring of local planning authorities’ performance with these detailed consents, the local planning authority must not be blamed for consequent delay. The Government should monitor the performance of the body (often itself in the public sector) that is making the application, to see if delay is caused by its own inefficiencies, changes of mind or failure to sign legal agreements promptly.

In amending paragraph 94 of the NPPF, the “proactive approach” of Local Authorities to priority public infrastructure developments described in paragraph 69 should include the planning of sites for locally required facilities ahead of applications being received.

Any amendments to NPPG, as proposed in paragraph 70, should emphasise the requirement for pre-application engagement to include local communities in an open manner and at the early stage as suggested in paragraph 56.

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

The need for expanded or additional schools and further education colleges, hospitals and major health centres, prisons and other criminal justice accommodation must be anticipated in advance of the need becoming serious. Sites must be identified well in advance to ensure optimum accessibility by public transport and avoidance of adverse effects on the neighbourhood, as the Government intends there should be “faster decision making” as in paragraph 55.

The process for these types of “major developments” must be compiled with those aims in mind, as they are “principally funded by government” (paragraph 54) and the expenditure should be effective and acceptable in impact on the locations chosen.

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?

It is not possible to give an answer for the proposals as a whole. Some individual schemes may well have such an impact, though probably most will not; it will depend on the nature of the scheme (whether for instance it makes it more difficult for people with impaired vision to find their way about) and its location (whether it is close to a community of a predominant religion or ethnicity). We suggest to meet this problem that there should be a prior approval requirement for the local planning authority to judge the impact on people who share a protected characteristic.

3. Consolidation and simplification of existing permitted development rights

London Forum supports the statement in paragraph 74 that “The material change of use from one use class, such as from Class C3 residential to another, such as Class E Commercial, Business and Service, would require planning permission.”

It is positive that these changes would not be implemented before 31st July 2021 which would give more time for consideration of the outcome of this consultation.

Use Class L which grants planning permission to change from small Houses of Multiple Occupation (Class C4) to residential (Class C3) and vice versa should be considered for needing full planning application to ensure that the mix of housing types and quantities that are needed can be controlled by local authorities.

The broad approach is supported in principle. The Government should refrain after any changes are implemented from any further tinkering with the Use Classes Order and the General Development Order, giving the consolidated Orders time to bed in and be assessed. A period of quiet will itself make it easier for local planning authorities to deal with cases speedily under a stable and consistent regime.

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?

Yes, but not Category 3 - this was time-limited and a number of London boroughs had exemptions which will need to be retained, especially those covering the Central Activity Zone, Kensington and Chelsea and various areas within other London boroughs. We would also reserve our position on Category 4, especially on the future of “anti-social” uses.

There are wide ranging issues in consultation paragraph 78 and this consolidation should be made in parallel with updating and consulting upon relevant parts of the NPPF and there should be full consultation on the draft changes proposed from both reviews.

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

Special care must be taken with provisions that allow limited physical works to support the change of use. It may be such works - for instance extractor fans for restaurants - that cause genuine difficulties for neighbours, and must be subject to planning permission.

Conservation areas should continue to have exemption from permitted development rights.

Q20 Do you agree 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?

No. Their permitted conversion should not be to residential, as that would have all the potentially harmful impact on high streets as in our response to Q1, Q3 and Q5 and our comments on page two of this response.

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

No – As in response to Q19.1, we want to be consulted on the next stage, especially with regard to “anti-social” uses.

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

No.