

Part 1: Permitted development rights and use classes

Allow greater change of use to support high streets to adapt and diversify

Question 1.1: Do you agree that there should be a new permitted development right to allow shops (A1) financial and professional services (A2), hot food takeaways (A5), betting shops, pay day loan shop and launderettes to change to office use (B1)?

Yes/~~No~~/~~Not sure~~

Many of the objectives these proposals are aiming to achieve are commendable; town centres do indeed need to adapt and diversify in response to trends in consumer behaviour and new technologies, and to become more economically, socially and environmentally resilient. However, several approaches set out in this consultation could actively undermine the vitality and viability of town centres, exacerbating the on-going damage done to town centres by previous changes to the planning system, in particular office to residential permitted development introduced in 2013, and the approach taken to disaggregation of out-of-town development proposals since the introduction of the NPPF in 2012.

The proposals to allow change of use between A1/A2 and B1, and – separately in this consultation – to combine A1/2/3 uses into one use class would effectively mean the end of a spatially planned approach to town centres. Uses would be driven primarily by which use would be most profitable for a landlord, and not – as ought to be the case currently – by the evidenced needs of the shops and services of the community.

This could have significant impacts, at different scales. At the smaller end of the scale, isolated shops or small parades that serve local communities could become offices or restaurants, forcing residents to travel further afield for daily essentials. Paragraph 92 of the NPPF 2018 recognises the importance of planning positively for the provision of local shops, and this proposal would undermine that approach. Medium-sized town centres could lose the specialist or independent shops that enable them to compete with larger centres and internet retailing. Large city centres could see the concentrations of larger retail premises – department stores and flagships – eroded by other uses. Offices play a vital economic function, but it is not the same function as shops, and they don't animate the high street in the same way. While change of use to offices in some areas may be appropriate, there will be other places where this could have significant impacts on economic growth and productivity, and the proposals could make the development of new housing in nearby areas less deliverable if these places do not offer convenient access to a range of shops and services. It is also worth noting that town centres are performing differently across the country. For example, vacancy rates in London town centres are significantly lower than the national average.

Town centres need to adapt and diversify. For some town centres a mixed approach (which could be the outcome of these proposed changes) might be appropriate. However, this will not be the case for all town centres and high streets, and in some centres maintaining a retail core, supported by other uses in specific areas, will be more suitable. Town centres vary significantly, serve different communities and have different local economies, issues and constraints; a one-size-fits-all approach should be avoided. Instead, those involved in planning for and managing town centres should be properly equipped to tailor the best approach for their area, informed by up-

to-date evidence of demand, supply and trends in consumer behaviour. That means partnership working between local authorities, businesses, residents, community groups, Business Improvement Districts, town centre partnerships, neighbourhood forums, and others, setting a clear strategy for the town centre, embedded in local plan policies and site allocations and co-ordinated with licencing arrangements. Paragraph 85 of the NPPF (2018) is clear that boroughs should ***“make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre”***. This is the correct approach to town centre planning, but would be undermined by these proposals.

Finally, launderettes serve a vital function, providing access to clothes washing facilities for people who might otherwise not have them in their home. They also often contribute to the vitality of a high street and the diversity of uses on offer. They should be excluded from any permitted development to change to other uses, including that proposed here.

Question 1.2: Do you agree that there should be a new permitted development right to allow hot food takeaways (A5) to change to residential use (C3)?

~~Yes~~/**No**/~~Not sure~~

The existing permitted development rights allowing conversion of retail to residential have the potential to undermine the provision of retail premises on the high street and could lead to housing that fails to provide a good standard of accommodation. This proposal would further exacerbate these problems, and while such changes of use might be acceptable in some instances, in general a plan-led approach would be preferable. This would ensure that such developments comply with the relevant requirements of a local plan, particularly regarding design, space standards and residential amenity.

In some instances, particularly where a hot food takeaway is within a protected parade or town centre, introducing residential use (particularly at ground floor) could undermine the function of the parade or the vitality of the centre, and lead to pepper-potting of residential amongst commercial uses. This should be avoided. Any permitted development should ensure that local authorities are able to consider the adequate provision of services or the sustainability of the shopping area.

Question 1.3: Are there any specific matters that should be considered for prior approval to change to office use?

Yes/~~No~~/~~Not sure~~

Local planning authorities should be able to consider the impact on the adequate provision of services and the sustainability of a shopping area. Consideration should also be given to transport and highways impacts, contamination, flooding, and design.

Question 1.4: Do you agree that the permitted development right for the temporary change of use of the premises listed in paragraph 1.9 should allow change to a public library, exhibition hall, museum, clinic or health centre?

~~Yes~~/**No**/~~Not sure~~

The provision of local services and social infrastructure on the high street is a welcome approach, supported in the draft London Plan, and will in some instances be an appropriate response to the need to diversify the high street. However, vital public services and social infrastructure must be provided on a reliable and permanent basis. Temporary provision is not an adequate substitute.

Question 1.5: Are there other community uses to which temporary change of use should be allowed?

No response.

Question 1.6: Do you agree that the temporary change of use should be extended from 2 years to 3 years?

Yes/No/Not sure

Increasing the temporary change of use from 2 to 3 years may give more certainty to early-stage businesses that use this permitted development.

Question 1.7: Would changes to certain of the A use classes be helpful in supporting high streets?

Yes/No/Not sure

See the answer given to Q1.1 for more commentary on this.

The consultation seeks to address two issues: the need for high streets to be able to adapt quickly to meet the changing expectations of communities for a broader mix of retail and leisure uses; and the need to reflect new business models, with the example cited of a premises used as both a bookshop and a café.

It is agreed that high streets need to be able to deal with both of these issues. However, instead of removing the ability of local authorities and their partners to plan for high streets and town centres, they should rather be better equipped to plan properly for their areas. Currently many local planning authorities do not have the resources to regularly review their retail evidence base, which is a costly and time-consuming exercise, and they therefore rely on outdated evidence that does not reflect the changing nature of high street demand and trends. It is important that Local Planning Authorities are properly resourced to undertake meaningful and comprehensive planning for their town centres, informed by robust and frequently-reviewed evidence. This would do much more to support high streets than the proposed one-size-fits-all, market-driven approach, which would fail to meet the economic needs of many local communities and could undermine the vitality and viability of many town centres. The Planning Practice Guidance could also be revised to provide further advice on alternative approaches to planning for town centres, and how new mixed-use business models can be successfully accommodated and encouraged.

Question 1.8: If so, which would be the most suitable approach:

a. that the A1 use class should be simplified to ensure it captures current and future retail models; or,

b. that the A1, A2 and A3 use classes should be merged to create a single use class?

Please give your reasons.

Both approaches as described in the consultation document could be potentially harmful.

It is unclear how option (a) would work. The consultation documents (para 1.11) suggests that the approach to the new A1 use class would be ***“to remove the current named uses and allow for a broader definition of uses for the sale, display or service to visiting members of the public.”*** If this is taken at face value, with a new definition of A1 Shops as “uses for the sale, display or service to visiting members of the public” there could be significant unintended consequences. This definition is so broad that it could be reasonably interpreted as encompassing the majority of uses currently within use classes A1, A2, A3, A4, A5, C1, D1 or D2, as well as many of the uses classed as *sui generis*. There is a risk that this would give rise to confusion and differences of interpretation, rather than helping to simplify the planning system.

An alternative approach could be to include additional named uses within the A1 use class definition. A consultation with expert groups such as the British Retail Consortium could assist in identifying retail-type uses that are not currently included – for example beauty and nail salons.

Increasing the time limit on temporary changes of use from 2 years to 3, as proposed elsewhere in this consultation, may also help to facilitate those businesses that operate across use classes.

Concerns regarding option (b) are discussed in response to Q1.1 and Q1.7 above.

A new permitted development right to support housing delivery by extending buildings upwards to create additional new homes

Question 1.9: Do you think there is a role for a permitted development right to provide additional self-contained homes by extending certain premises upwards?

Yes/~~No~~/Not sure

While there is scope for additional housing to be provided above existing buildings, allowing this through permitted development could result in negative outcomes.

Lessons should be learned from the office to residential permitted development right, which has resulted in residential development in inappropriate places such as industrial estates, poor quality development that does not meet residential space standards, and development that fails to contribute to the delivery of genuinely affordable housing. There is a significant risk that this proposal will repeat these mistakes. The recent report by the Royal Institute of Chartered Surveyors (Extending permitted development rights in England: the implications for public authorities and communities, RICS 2018) sets out some of the unintended consequences of such permitted development conversions, including in Croydon, where “a large number of clearly sub-standard ‘studio’ units below 20m² have been created”, and where residents raised “serious concerns about issues like overcrowding, noise, health and safety (particularly fire safety) and social infrastructure”. Other schemes such as Newbury House, Ilford in the London Borough of Redbridge (see Redbridge planning application reference 2125/14) have resulted in studio units

as small as 13m² – marginally larger than a standard parking bay (11.5m²). While it is recognised that the Building Control system has a role to play in ensuring the safety of development, it is clear that some permitted development schemes are not designed with the safety and comfort of future residents as a primary consideration. There are therefore serious concerns that these mistakes could be repeated in these permitted development proposals.

While it is recognised that some – perhaps most – schemes that might result from this proposed permitted development would be relatively small, it is important to note that some London boroughs – due to historic patterns of development and site availability – have adopted local plan policies that secure affordable housing contributions on smaller sites of below 10 units. This can make an important contribution towards the provision of genuinely affordable housing in London, for which there is significant need, and is supported in the draft London Plan. Allowing upward extension through permitted development could reduce these justified and necessary contributions.

This proposal could also fail to make the best use of land. Developers may choose to develop an upwards extension over an existing building when a more comprehensive redevelopment of the site would yield more housing, better design and improved site configuration.

The proposal could also lead to developers seeking prior approval for a scheme that includes upward extension, and arguing that this establishes a ‘fall-back position’ that gives the site a higher ‘alternative use value’ in viability negotiations.

While it is positive that the proposal would not apply to Article 2(3) land, depending on the extent of the permitted development right, it could still have impacts upon the setting of some heritage assets, notably the settings of World Heritage Sites.

The proposal could also curtail the operations of established local businesses, particularly those that produce noise, such as music venues and pubs; it is important that any such permitted development allows consideration of noise, vibration and other issues along ‘agent of change’ principles at prior approval stage.

An alternative approach would be to follow the lead taken by the draft London Plan, which includes (see Policy H2) a presumption in favour of small housing developments of between 1 and 25 homes, which is drafted in a way that ensures that the unintended consequences set out above would not come about, but which also goes significantly further than just upward extensions to also include infill schemes and residential redevelopment, conversion and extension.

Question 1.10: Do you think there is a role for local design codes to improve outcomes from the application of the proposed right?

Yes/No/Not sure

Design codes are a valuable tool for giving guidance on appropriate development in an area, based on a robust evaluation of the character of an area and its capacity for growth. The draft London Plan (see policy H2) requires boroughs to prepare area-wide design codes to assist in the delivery of the presumption in favour of small housing developments. However, design codes would not provide adequate mitigation for the potential negative impacts of the proposed permitted development right for upward extension.

Question 1.11: Which is the more suitable approach to a new permitted development right:

- a. that it allows premises to extend up to the roofline of the highest building in a terrace; or**
- b. that it allows building up to the prevailing roof height in the locality?**

This question demonstrates that the one-size-fits-all approach of permitted development is too simplistic a mechanism to enable successful outcomes in all circumstances. Considering full planning applications through a plan-led approach allows the wider character of the area to be taken into account, as well as the more immediate context of the site, and for professional judgement to be reached about the impact on the street scene. It also allows for the consideration of well-designed development that would exceed the prevailing roof height to be developed. The options set out in this question could lead to perverse outcomes, giving permitted development to schemes that are harmful to the street scene because there are other tall buildings nearby. In London in particular the character of the area is highly varied, with taller buildings in close proximity to mid- and low-rise areas. Deciding the appropriate height of development is therefore a matter of careful judgement and should not be the subject of arbitrary rules set nationally.

Question 1.12: Do you agree that there should be an overall limit of no more than 5 storeys above ground level once extended?

This question further demonstrates the unsuitability of using permitted development in such complex situations. Five storeys is an arbitrary selection. The appropriate height for new development varies significantly in different areas, and this is particularly the case in London, where the character of the streetscape is highly varied.

Question 1.13: How do you think a permitted development right should address the impact where the ground is not level?

No response

Question 1.14: Do you agree that, separately, there should be a right for additional storeys on purpose built free standing blocks of flats? If so, how many storeys should be allowed?

No response

Question 1.15: Do you agree that the premises in paragraph 1.21 of the consultation document would be suitable to include in a permitted development right to extend upwards to create additional new homes?

~~Yes~~/**No**/~~Not sure~~

As set out above, it is not agreed that this permitted development approach to upward extensions should be pursued. While upward extension above some of the uses mentioned may be appropriate in some instances, this should be secured through a planning application in order to ensure that all relevant matters can be considered.

Question 1.16: Are there other types of premises, such as those in paragraph 1.22 of the consultation document that would be suitable to include in a permitted development right to extend upwards to create additional new homes?

~~Yes~~/**No**/~~Not sure~~

Of the uses mentioned, there are particular concerns regarding upward extension above out of town retail parks. The form and character of many such places do not create welcoming, walkable neighbourhoods, but rather involve large expanses of surface car-parking, large-format stores, and poor pedestrian environments, and are an inefficient use of land, particularly within built-up cities such as London. Given their characteristics, the draft London Plan identifies out of town retail parks as particularly suitable for redevelopment for a mix of uses including housing. Permitting upward extension of these sites would do nothing to address the poor-quality environments that these places have, would preclude more comprehensive redevelopment of the sites, and would introduce residential use and pedestrians into unsuitable environments.

It should also be noted that retail parks and offices are often adjacent to or within industrial estates, or along busy roads. The permitted development could therefore lead to poor-quality residential environments and curtail the operations of established industrial businesses due to their impact on residential amenity.

Question 1.17: Do you agree that a permitted development right should allow the local authority to consider the extent of the works proposed?

No response

Question 1.18: Do you agree that in managing the impact of the proposal, the matters set out in paragraphs 1.25 -1.27 of the consultation document should be considered in a prior approval?

Yes/~~No~~/~~Not sure~~

It is agreed that these issues would all need to be considered. The extent of these issues demonstrates that requiring a full planning application would be a more reasonable approach to such proposals.

It is noted that in paragraph 1.26 the consultation states that prior approval should be granted where the design is in keeping with the existing design of the building. This is a matter of judgement and expertise, and could give rise to significant disagreements in interpretation between the local authority and the applicant as to whether a proposal is 'in keeping' or not. Far from simplifying the process, this could therefore cause further delays. This presumption could also result in poorly-designed buildings being extended in ways that exacerbate that poor design. This approach overall is therefore at odds with the emphasis that the Government claims to place on championing good design through the Building Better, Building Beautiful commission.

Question 1.19: Are there any other planning matters that should be considered?

Yes/~~No~~/~~Not sure~~

Prior approval should consider whether the proposed development would meet standards on internal and external space, provide adequate cycle parking, not exceed car parking maximum standards, and not exacerbate poor air quality. Transport and access considerations – both during construction and post-occupation – should be addressed. Such schemes should also contribute toward the provision of genuinely affordable housing.

Schemes should need to address potential impacts on sub-surface infrastructure as a result of increased load or deeper foundations. Consideration should be given to the impact on operational rail infrastructure of any windows, doors or balconies on additional floors, particularly where lower floors have been subject to controls.

Question 1.20: Should a permitted development right also allow for the upward extension of a dwelling for the enlargement of an existing home?

~~Yes~~/**No**/~~Not sure~~

No. Due to the potential impacts of such development, this should be subject to planning permission.

Question 1.21: Do you agree that the permitted development right for public call boxes (telephone kiosks) should be removed?

Yes/~~No~~/~~Not sure~~

It is agreed that applications for public call boxes should be considered through the planning system via a planning application, allowing for proper consideration of the impacts of this development to ensure that the design and layout of our streets encourage active travel for all.

The removal of permitted development rights for the installation of new public call boxes and the removal of deemed consent for placing of an advertisement on a single side of a telephone kiosk are strongly supported.

In recent years, there has been a significant increase in the number of prior approval applications, particularly in central London and on the Transport for London Road Network (TLRN). For example, on Edgware Road, between Edgware Road and Marble Arch London Underground station, there are around 25 existing telephone kiosks, yet applications submitted over the past two years have proposed to double that number.

In parallel with this increase, there has been a marked downward trend in the use of public call boxes, as mobile phones and Wi-Fi facilities in and around commercial and public buildings, and on public transport, have become more prevalent.

TfL has experience of managing and maintaining the TLRN and is aware of instances of call boxes without working phones and functioning call boxes not being used for months at a time. It appears that proposals by operators are aimed instead at securing advertisement sites in busy urban areas with high pedestrian and vehicle volumes, even where these areas are already served by call boxes. These applications sidestep the usual policy tests that would apply if planning permission and advertisement consent were necessary, but the justification that once existed, of strong demand for a growing network of public telephone kiosks, has now fallen away.

The majority of new sites TfL is made aware of as highway authority are unsuitable and raise a number of concerns. These include:

Risk of collision: call boxes interrupt sightlines between road users and can therefore potentially contribute to or cause accidents. This risk is exacerbated by bright, moving images which are increasingly common and can distract road users.

Obstruction: call boxes obstruct many footpath and kerbside activities including walking, getting on and off buses and in and out of taxis, loading, servicing and deliveries, and parking for cars and cycles. When sited too close to the carriageway, they also obstruct safe use of the carriageway and can cause road users to swerve away from the kerb into other lanes of traffic. This impact is particularly concerning where footpaths are already at capacity with pedestrians. For example, five additional call boxes have been proposed on Waterloo Road adjacent to the rail station in an area with narrow footpaths.

Competition for space: streets and footpaths must accommodate a wide range of activities to support the economy, move people and goods and create an inclusive and welcoming public realm for people to dwell in. Constraining space for these necessary activities with unnecessary street furniture is not efficient. Seating, bus and tram passenger facilities, cycle parking, electric vehicle charging points, green infrastructure, and wayfinding signage are all better uses for this space.

Inclusion: call boxes can present difficulties for people with disabilities or who are using prams or trolleys to navigate footpaths. For streets to be inclusive, people from all walks of life should be able to comfortably navigate footpaths. Call boxes can present severance and difficulties for some of these people.

Amenity: the amenity value of high streets and town centres is adversely impacted by call boxes, especially where heritage value is impacted, such as in Conservation Areas. Many public realm improvements, including those invested in by TfL and local authorities, have de-cluttered streets, leading to improved environments; removing permitted development rights for call boxes would help to ensure this is not undermined by poorly-considered and unnecessary new street furniture.

Restricting the evolution of streets: the placement of call boxes can sometimes prevent desired changes to crossing points, bus stops, loading and parking. This prevents highway authorities from responding to changing desire lines, service patterns and economic activity.

Given the decline in use and impacts on the public realm, there is usually very little justification for the creation of more public call boxes.

Question 1.22: Do you agree that deemed consent which allows an advertisement to be placed on a single side of a telephone kiosk should be removed?

Yes/No/Not sure

Deemed consent for such applications encourages the development of telephone kiosks whose primary function is as advertisements, with a secondary function as phone kiosks. Given the potential impact of this development, such proposals would be better considered as part of applications for advertisement consent.

Question 1.23: Do you agree the proposed increased height limit for an electrical vehicle charging point upstand in an off-street parking space that is not within the curtilage of a dwellinghouse?

~~Yes/No/Not sure~~

This proposal is supported as it would give greater flexibility to allow larger electric vehicle charging points in appropriate places, helping to encourage and facilitate greater uptake of more sustainable vehicles. It is recognised that higher charging points could lead to negative impacts in terms of urban design, sight-lines for vehicles, and the character and appearance of the public realm, but there would also be benefits to the rollout of more charging points, which will help to encourage the uptake of cleaner and quieter vehicles, improving air quality and helping to deliver the Healthy Streets Approach.

In addition to the points raised above, this consultation presents an opportunity to make the Government aware of another permitted development rights issue that, whilst not covered specifically in this consultation, has potential impacts on transport authorities. Earlier this year, the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018 (“the 2018 Order”) made changes to Part 9, Class C in Schedule 2 to the GPDO, which restricted these rights to development “by transport undertakers” only. The term “transport undertakers” is defined in article 2 of the GPDO by reference to section 329 of the Highways Act 1980, which reads as follows: ““transport undertakers” means persons authorised by any enactment to carry on any of the following undertakings, that is to say, a railway, canal, inland navigation, dock, harbour or pier undertaking, and “transport undertaking” is to be construed accordingly”. This definition is overly restrictive, as it could mean that bodies that are only road transport or tramway undertakers would be unable to rely on the rights. It is considered that TfL can still rely on these amended permitted development rights due to the wide functions of the organisation. However, this may not be the case for a number of transport authorities that have routinely relied on these permitted development rights. It is therefore suggested that the definition is amended to include road transport and tramway undertakings in the definition of “transport undertakers”. TfL would be happy to discuss this issue further with the Government.

Making permanent two time-limited permitted development rights

Question 1.24: Do you agree that the existing time-limited permitted development right for change of use from storage or distribution to residential is made permanent?

~~Yes/No/Not sure~~

The latest evidence in the London Industrial Land Demand Study (CAG consultants for GLA, 2017) indicates that London has projected (gross) demand for an additional 280 hectares of storage and distribution land between 2016 and 2041. Industrial land in London has been released at almost three times the planned rate between 2010 and 2015, with 106 hectares of land released annually compared to a benchmark figure of 37 hectares. Unlike many other cities in the UK, London no longer has an overall surplus of industrial and distribution land, and it is vital that sufficient industrial and distribution capacity is retained within London to service the growing economy and consumer demand, and provide vital functions such as sites for utilities, transport and waste. Further erosion of distribution capacity will lead to this demand being serviced increasingly from outside London, exacerbating the congestion of roads in London and

the Wider South East, worsening air quality and generating additional harmful greenhouse gas emissions.

It is recognised that this permitted development only applies to premises smaller than 500 square metres, but units of this size are an important component in the distribution network, and may serve an important ‘last-mile’ function or provide warehousing capacity for small businesses that are part of local economies.

It is also recognised that the prior approval allows a local authority to consider whether the introduction of residential use into an area would have an adverse impact on a wider industrial area. Given the importance of retaining London’s industrial capacity, and the implications of not doing so on London’s economy, traffic and transport, and the environment, it is crucial that this resource is managed through the plan-led system as the draft London Plan proposes.

The draft London Plan has identified sufficient capacity to meet the vast majority of projected growth within London and sets out a strategy for delivering the requisite balance of land uses; the proposed new permitted development right could undermine that approach. Schemes provided under this permitted development would also fail to contribute to the significant demand for genuinely affordable homes in London, and could lead to the development of sub-standard housing that does not meet space standards or incorporate external amenity space.

Question 1.25: Do you agree that the time-limited permitted development right for larger extensions to dwellinghouses is made permanent?

No response

Question 1.26: Do you agree that a fee should be charged for a prior approval application for a larger extension to a dwellinghouse?

It is vital that local planning authorities are properly reimbursed for the important work they undertake. Prior approvals for larger extensions can involve a significant amount of officer time, and an appropriate fee should therefore be charged to cover this work.

Supporting housing delivery by allowing for the demolition of commercial buildings and redevelopment as residential

Question 1.27: Do you support a permitted development right for the high quality redevelopment of commercial sites, including demolition and replacement build as residential, which retained the existing developer contributions?

~~Yes~~/**No**/~~Not sure~~

As identified elsewhere in response to this consultation (see in particular the response to Q1.9), the existing permitted development right to convert offices to residential use has in too many cases led to unsuitable dwellings and a loss of viable and important office floorspace, and failed to contribute to the pressing need for genuinely affordable homes. Lessons should be learned from this, and instead of this proposal the Government should be correcting these mistakes by

ensuring that office to residential conversions are at least required to meet residential space standards and to contribute towards genuinely affordable housing.

The proposals to allow demolition of commercial buildings and redevelopment as residential buildings could mean the loss of viable, occupied commercial buildings that make a vital contribution to the stock of premises in London. It is unclear how ‘commercial’ is to be defined, but taken at its broadest to cover A and B class uses, this could have a significant and destabilising effect on London. London’s Central Activities Zone (CAZ) contains internationally-important office locations, and the CAZ generates almost 10 per cent of the UK’s output and accommodates a third of jobs in London. This economic function, which is vital not just to London but to the UK as a whole, could be undermined if the proposed permitted development were to come into force without suitable exemptions for the CAZ and other strategically important office locations in London, such as the Northern Isle of Dogs, Tech City and Kensington & Chelsea. The proposed permitted development could also undermine the economic vitality and viability of town centres and lead to the loss of smaller office provision, which makes a crucial contribution to jobs and businesses across London. It could also lead to the further erosion of industrial and distribution premises, at a time when London needs to retain sufficient industrial capacity to support the wider economy and growing population. The draft London Plan sets out a range of policies that will ensure sufficient industrial capacity is retained while still allowing some industrial land to be redeveloped for housing, through a process of intensification of industrial sites and, where suitable, co-location of industrial premises with residential uses through careful design. This policy approach would be seriously undermined by the proposed permitted development.

There is also a contradiction between the approach proposed here, which would reduce the ability of local planning authorities to ensure that new development is well-designed, and the stated aims of the Government’s Building Better, Building Beautiful Commission, which is seeking to “ensure the design and style of new developments ... help to grow a sense of community and place”.

Question 1.28: What considerations would be important in framing any future right for the demolition of commercial buildings and their redevelopment as residential to ensure that it brings the most sites forward for redevelopment?

This suggested permitted development right is not supported, however if the Government do pursue this approach it is vital that consideration be given to the provision of genuinely affordable housing, developer contributions toward infrastructure and other requirements, and the need for residential development to be of high quality, including through meeting space standards.

Given the nature of the proposed permitted development, there are a broad range of issues that would need to be considered for any such scheme. The consultation document sets out some of these, and it is welcome that there is recognition of the need to consider contributions towards affordable housing and other infrastructure. However, it is clear that for such schemes to be successful, a prior approval process would in practice be tantamount to a full planning application. The only matter that would be expressly removed from consideration would be the principle of the change of use of the site; however, given that commercial sites are often of strategic importance – either to London as a whole, as set out above, or to individual boroughs, as set out in site allocation documents – it could be significantly detrimental to the economic growth of the area if the ability to consider the principle of the change of use of the site were removed from local planning authorities.

It is possible that restricting the proposed permitted development to smaller premises only would limit its impact at the strategic level; however, this could still undermine local plans and lead to inappropriate development.

Impact assessment

Question 1.29: Do you have any comments on the impact of any of the measures?

Yes/No/Not sure

i. Allow greater change of use to support high streets to adapt and diversify

As set out above, the proposals to allow change of use from A1 to B1a offices and to combine the A1, A2 and A3 use classes could lead to the loss of shops that provide access to goods and services for local communities, and could undermine the vitality and viability of town centres.

ii. Introducing a new right to extend existing buildings upwards to create additional new homes

Allowing this through permitted development could lead to poor quality and badly-designed development, fail to make the best use of land, fail to provide affordable housing, curtail the operations of established local businesses, and harm the setting of heritage assets.

iii. Removing permitted development rights and advertisement consent in respect of public call boxes (telephone kiosks)

Removing permitted development rights in respect of public call boxes would have a positive impact on the health and wellbeing of the population by limiting unnecessary street furniture on pavements and creating a better environment for active travel and improving the accessibility of the public realm. Removing deemed advertisement consent on public call boxes will help to limit exposure to advertising of unhealthy products that are high in fat, salt or sugar. This will contribute to tackling childhood obesity, which is a major problem in London and which the Mayor is seeking to address through the programmes and projects set out in his Health Inequalities Strategy.

iv. Increasing the height limits for electric vehicle charging points in off-street parking spaces

No response

v. Making permanent the right for the change of use from storage to residential

This could undermine the ability of London to be able to service its fast-growing distribution and logistics sector, which is a vital part of the wider London economy and for which there is strong projected demand. It could also lead to the creation of sub-standard homes that do not meet space standards, lack suitable amenity space or other facilities, and are not suitable for disabled residents, and it would not contribute toward the pressing need for genuinely affordable housing in London.

vi. Making permanent the right for larger extensions to dwellinghouses

No response

Public sector equality duty

Question 1.30: Do you have any views about the implications of our proposed changes on people with protected characteristics as defined in the Equality Act 2010?

Yes/No/Not sure

What evidence do you have on these matters?

As set out above, the proposals to allow change of use from A1 to B1a offices and to combine the A1, A2 and A3 use classes could lead to the loss of shops that provide access to goods and services for local communities. This could have a significant and disproportionate effect on those who are less able to travel greater distances, particularly people who are older, disabled, pregnant or have small children. Removing permitted development rights for call boxes would also have a beneficial impact on some people with protected characteristics, as it would help to make the public realm more accessible.

Is there anything that could be done to mitigate any impact identified?

No response

Part 2: Disposal of local authority land

Question 2.1: Do you think that the threshold for the existing general consent for the disposal of land held for purposes other than planning or housing at undervalue (under section 123 of the Local Government Act 1972) should: a. remain at the current level? b. be increased? c. be removed completely? Please give your reasons.

The Mayor agrees with Government that the existing financial threshold for the disposal of public land is out of date. He supports the complete removal of this financial threshold.

As set out in his London Housing Strategy, The Mayor is working with other public landowners to bring their sites to the market - including through his London Development Panel, his Small Sites Small Builders programme and his contribution to the development of the London Health and Care Estates Strategy. Through this experience, and experience with the GLA Group's own land, the Mayor is clear that the rules governing the disposal of public land are a significant constraint on landowners' ability to dispose of sites quickly and in a way that meets local housing needs. In particular, the rules are undermining public sector organisations' ability to deliver affordable homes on publicly-owned land.

While the principle of best consideration is sound, the Mayor believes that the system of financial thresholds in place for public land disposals are arbitrary and – even if they are increased – cannot recognise local and regional variations in land values, or legitimate local or organisational decisions about what 'value' means. Democratically-elected councils are best-placed to make decisions about how the sale of their assets should be used to benefit local residents. The existing consent requires landowners to demonstrate that disposals meet economic, social or environmental well-being criteria and the Mayor believes this check-and-balance alone is sufficient to ensure councils meet their fiduciary duties and that separate Secretary of State consent is not required. General disposal consent legislation should therefore be amended to enable public landowners to dispose of sites at less than best consideration where these well-being criteria are met, and without the need for Secretary of State consent.

Question 2.2: If you consider it should be increased, do you think the new threshold should be: a. £5 million or less? b. £10 million or less? c. other threshold? (please state level) Please give your reasons.

As set out above, the Mayor believes that the financial threshold should be removed completely.

Question 2.3: Do you agree that the Secretary of State should issue a new general consent under section 233 of the Town and Country Planning Act 1990 for the disposal of land held for planning purposes? Please give your reasons.

Yes. The current requirement to seek Secretary of State consent for the disposal of land held for planning purposes is unnecessary, can unacceptably delay development and can disincentivise councils' acquisition or appropriation of land for planning purposes.

Question 2.4: If yes, do you think any new general consent should apply to: a. disposals at an undervalue of £2 million or less? b. disposals at an undervalue of £5 million or

less? c. disposals at an undervalue of £10 million or less? d. disposals at some other undervalue threshold? (please state level) e. all disposals regardless of the undervalue? Please give your reasons.

The Mayor believes that the new general consent should apply to all disposals regardless of the undervalue. As set out above, the Mayor believes that any financial threshold on public land disposals would be arbitrary and would constrain councils' ability to dispose of land in a way that they judge meets local priorities.

Question 2.5: Do you agree that the economic, social or environmental well-being criteria which apply to the existing general consent should also apply to any new general consent for the disposal of land held for planning purposes?

Yes. As set out above, the Mayor believes this provides the appropriate level of check-and-balance.

Question 2.6: Do you have any additional comments about the current system governing disposals of land at an undervalue by local authorities and our proposals to amend it?

The Mayor's strategic target is for half of all new homes delivered across London to be affordable. Prioritising affordable housing delivery on public land can make an important contribution to achieving this target, and the Mayor's draft London Plan makes a Fast Track route to planning permission available to public sector sites where they deliver 50 per cent affordable housing in a development or across a portfolio in an approach agreed by the Mayor. Through his *Building Council Homes for Londoners* programme, he is also supporting councils to build 15,000 new council homes, including more than 11,000 homes for social rent. 80 per cent of the homes delivered through this programme will be on council-owned land.

The proposals set out in the consultation would go some way to enable councils to prioritise affordable housing delivery on their landholdings. However, the Mayor believes that these proposals fall far short of what is required to realise London councils' homebuilding ambitions, and further reforms are urgently required. These should include legislative reforms that would support councils to assemble land for new homes (these are set out in more detail in the London Housing Strategy¹ and recent research, *Capital Gains*², commissioned by the GLA), along with additional resources to enable councils to lead the identification and release of sites in their ownership. The Mayor recently launched a £10 million Homebuilding Capacity Fund³ to support councils to increase their planning and housing delivery capacity, and the One Public Estate programme, delivered in partnership by the Office of Government Property and the Local Government Association, offers funding and support for public bodies seeking to unlock surplus landholdings for housing development. However, both funds are limited in scope and do not address the core resourcing issues that councils still face.

More widely, the Mayor notes the limited scope of this consultation. Government should go further to ensure that the delivery of affordable housing, infrastructure and other community

¹ Available at www.london.gov.uk/housing-strategy

² Urbed, Dentons, Gerald Eve and Housing Futures (2018): *Capital Gains: a better land assembly model for London*. Available at www.london.gov.uk/better-land

³ For further information, please see www.london.gov.uk/homebuilding-capacity-fund

benefits are prioritised on public land, and should lead by example to ensure that affordable housing, infrastructure and community uses are promoted on its own landholdings.

Question 2.7: Do you consider that the current £10m threshold contained in the general consent governing disposals by the Greater London Authority remains appropriate? Please give your reasons.

No. In line with his position on the disposal of council-owned land, the Mayor believes that the general consent financial threshold for the GLA should be removed. In addition to the £10 million threshold, the GLA is also subject to a 30 per cent maximum difference threshold between the unrestricted value of the land and the undervalue. This similarly constrains disposal and should also be removed.

Financial thresholds on land disposals are unpractical given property values in London, where even relatively small sites would potentially require specific disposal consent. This is demonstrated by case study 1 below, where the impact on the market valuation of delivering the Mayor's 50 per cent affordable housing target would currently require Secretary of State consent to dispose of the sites. While this case study relates to affordable housing requirements, stipulating that sites should deliver other housing priorities (e.g. community-led homes, or Build to Rent) can also impact on market value, and therefore lead to Secretary of State consent being required for disposal. As highlighted in case study 2 below, this process can be time-consuming and can delay development.

Case study 1

The GLA has obtained independent professional advice from a recognised international property consultancy to assess the impact of seeking 50 per cent affordable housing on a site it owns in east London, in line with the Mayor's manifesto commitments, draft London Plan policy, and the wishes of the local borough. The site is 1ha and can deliver approximately 100 homes, making it a relatively small site in a London context. Different tenures were modelled:

- Estimated market valuation with 35% (60:40 Affordable Rent: Shared Ownership) = £7.1m
- Estimated market valuation with 50% (60%AR:40%SO) = £2.6m
- **Difference = £3.9m (60%)**
- Estimated market valuation with 50% (33% social rent, 33% London Living Rent, 33% shared ownership) = £1.6m
- **Difference = £4.9m (75%)**

In the second and third tenure mixes modelled, the impact of increasing overall affordable housing delivery to 50 per cent on the site meant that the maximum difference threshold set for the GLA between the unrestricted value of the land and the undervalue (30 per cent) was exceeded. This means that Secretary of State consent would be required to dispose of the site.

Case study 2

The Mayor owns the Manor Road retail park site in Newham. Alongside an adjacent site, Manor Road is being developed in conjunction with English Cities Fund (a joint venture between Homes England, Muse and Legal & General), and will deliver a total of 804 homes, 50 per cent of which will be affordable. As well as delivering affordable housing, the scheme will also provide high-quality public space, with significant upgrades to the local highway.

The Mayor's proposals exceeded the general disposal consent threshold, and as such the Mayor applied for Secretary of State consent to dispose of the site in February 2018. The Secretary of State provided consent for the Mayor to dispose of this site in September 2018 – seven months after the request was submitted. This delayed the development and created considerable uncertainty for the GLA, delivery partners and the local community.

Question 2.8: If you consider the current threshold is no longer appropriate, or that the limit should be removed completely, please specify what you think the alternative should be and give reasons.

The existing general disposal consent requires the GLA to meet economic, social and environment criteria when disposing of a site at an undervalue. This criteria on its own is sufficient to ensure that the public benefit of sites under the Mayor's control are maximised. The Mayor is best placed to make this decision and separate consent by the Secretary of State is unnecessary.

Question 2.9: Do you have any views about the implications of our proposed changes on people with protected characteristics as defined in the Equality Act 2010? What evidence do you have on these matters? Is there anything that could be done to mitigate any impact identified?

Removing general consent financial thresholds for land disposals would enable public sector landowners to deliver a higher proportion of affordable homes without seeking Secretary of State consent. Increasing the supply of affordable housing will help to alleviate poverty, which is more likely to be experienced by groups with specific protected characteristics, including minority ethnic individuals, young people and disabled people, refugee and asylum seekers, Gypsy and Traveller groups, and workless households⁴.

⁴ Equality and Human Rights Commission (2016): *Is England fair: the state of equalities and human rights*