

Government consultation Supporting Housing Delivery & Public Service Infrastructure

**Response by the Mayor of London / Greater London
Authority**

2 February 2021

Supporting housing delivery through a new national permitted development right for the change of use from the Commercial, Business and Service use class to residential

Q1 Do you agree that there should be no size limit on the buildings that could benefit from the new permitted development right to change use from Commercial, Business and Service (Class E) to residential (C3)?

Agree	
Disagree	X
Don't know	

Please give your reasons:

We do not support the introduction of the new permitted development right to change use from Commercial, Business and Service (Class E) to residential (C3) for the reasons set out in the Mayor's covering letter and set out in more detail in Questions 1 to 6.2 below.

If the government chooses to implement this new permitted development right regardless, it is essential that conditions are introduced to mitigate the unintended negative impacts of the rights.

One of these conditions should be a size limit.

The absence of a clear mechanism for permitted development conversions to provide or contribute towards affordable housing, coupled with the absence of a size limit, will result in a significant loss of affordable housing contributions that could otherwise have been secured through conventional planning approvals. As set out in the new London Plan, of the 66,000 homes needed annually in London, 43,500 are needed as affordable supply. Through the new London Plan, therefore all major developments of 10 or more units trigger a requirement for affordable housing.

Currently, conversions to residential under Permitted Development Rights do not have to provide affordable housing or infrastructure contributions. The Planning White Paper proposed a new national Infrastructure Levy to replace current mechanisms for securing affordable housing and infrastructure contributions which would also apply to permitted development. There is a broad recognition within the planning and development sector that the proposed Infrastructure Levy would not be an effective means of delivering affordable housing and infrastructure. The Mayor has argued strongly that the current system of 'Section 106 agreements' and Community Infrastructure Levy should be retained and enhanced, and that these should be used to require permitted development to provide affordable housing and infrastructure funding.

As yet, further details of the proposed Infrastructure Levy have yet to emerge. Without affordable housing requirements in place for Permitted Development, the new proposals as they stand could see a very substantial loss of contribution to affordable housing. Based on realistic and conservative estimates, the difference between the value of PDR development with affordable housing at 35 per cent and without, could amount to £2.8 billion and potentially more over the next 5 years.

The government's proposals, if implemented, would fail to meet the housing needs of Londoners, eroding the ability of individual local planning authorities to meet housing need in accordance with paragraphs 60-61 of the NPPF.

Whilst the proposals indicate that permitted development may be required to contribute to the proposed Infrastructure Levy (subject to the outcomes of the white paper), we have significant reservations about the proposed new Infrastructure Levy more widely, including in the context of affordable housing. We are concerned that in the absence of a size limit for permitted development, and uncertainty about the operation of the proposed new Infrastructure Levy, the potential for large scale conversions of uses currently in Class E to residential will place significant pressure on all types of infrastructure. The proposals, as presented in the consultation document, are therefore not supported by an adequate mechanism to secure appropriate provision for, or contributions to, the infrastructure that is required. This will have an overall negative impact on communities and could lead to an inequitable approach whereby some developments make necessary and appropriate mitigations (secured through conventional planning applications) whilst developments via PDR may not.

The absence of a size limit, together with the absence of a condition related to 'no reasonable prospect of commercial use' (see our response to Question 3.2), means that the scale of the potential impact of the proposed permitted development rights on existing businesses, jobs and occupied commercial, business and service floorspace will be significant.

The absence of a size limit means that complex medium and larger scale buildings may be converted, some of which may be of a scale of potential strategic importance. The simplified prior approval criteria suggested in the consultation are insufficient to capture the range and complexity of potential impacts of larger scale changes of use, including the cumulative impacts of widespread changes of use.

In some circumstances sites in commercial use may already been identified for redevelopment for residential or residential-led mixed use and have strategic value for their ability to deliver significant housing numbers and community benefits. Allowing change to occur through permitted development - whereby housing output is constrained by the existing buildings on site, rather than via the development management process which provides the platform to optimise densities through a design-led approach - will inevitably result in less overall housing than might otherwise be achieved. This will be particularly true of large sites where masterplanned redevelopment that accounts for context and quality design could unlock larger numbers of homes (and more successful places) that permitted development simply cannot. In the context of London's housing crisis, missing out on the opportunity to optimise the number of homes that can be delivered is ill conceived and short sighted.

Considering the above, it is essential therefore that a size threshold is introduced alongside other conditions (see our response to other consultation questions below) that are necessary to mitigate the unintended negative impacts of the rights.

Under the existing permitted development rights in the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, development is not permitted in Class M if "the cumulative floor space of the existing building changing use under Class M exceeds 150 square metres" (clause M.1 (c)).

For the reasons set out in this consultation response, we do not support the introduction of the new permitted development right to change use from Class E to residential. If the government chooses to implement this new permitted development right regardless, it is essential that a size limit is introduced which should be no more than 150 square metres. This is in line with the existing condition set out in the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, clause M.1 (c)).

Q2.1 Do you agree that the right should not apply in areas of outstanding natural beauty, the Broads, National Parks, areas specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981, and World Heritage Sites?

Agree	X (part)
Disagree	X (part)
Don't know	

Please give your reasons:

We agree that the right should not apply in areas of outstanding natural beauty, the Broads, National Parks, areas specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981, and World Heritage Sites in recognition of the significant value and conservation status of these natural and built environments. For the same reasons the rights should not apply in conservation areas, to assets of archaeological significance and to nationally or locally listed assets (please see our response to Question 2.2 below)

The list of exceptions in Question 2.1 is also insufficient to capture other locations in London where the proposed new permitted development right would have significant negative unintended impacts on the London and UK economy; on businesses, jobs and the livelihoods of Londoners; and on the economic and social recovery from the effects of the coronavirus pandemic.

In 2013, government first introduced office to residential permitted development rights. In recognition of the nationally and internationally significant office locations of the Central Activities Zone, Northern Isle of Dogs, Tech City and the Royal Borough of Kensington & Chelsea, the government rightly granted exemptions where the permitted development rights would not apply. This occurred following representations from the Mayor of London, London boroughs, London First, the Federation of Small Businesses, Business Improvement Districts and other umbrella business organisations, individual businesses and community organisations. This exemption was essential to safeguard these nationally important functions and their long-term contribution to both the London and UK economy and employment.

The case for these exemptions and the targeted Article 4 Directions which replaced them in May 2019 has already been made.

Given the significant negative impacts identified in this consultation response, **the government's proposed PDR should not be introduced**. Instead, the Government should be seeking to devolve permitted development powers to Mayoral authorities including the Mayor of London so that more nuanced and place-specific PDR can be drawn up, in collaboration with local authorities and other stakeholders.

Further details on this issue are provided in our response to Question 3.2.

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

Agree	
Disagree	X
Don't know	

Please give your reasons:

Conservation areas are designated for their architectural and historical value. Along with assets of archaeological significance they are just as sensitive to negative adverse impacts of development including changes of use as the other types of article 2(3) land.

London's heritage assets and historic environment are irreplaceable and an essential part of what makes London a vibrant and successful city, and their effective management is a fundamental component of achieving good growth.

It is essential that development proposals (including changes of use) affecting heritage assets and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings. For some conservation areas, particularly historic town centres, the commercial character of the area is itself a contributor to its historic significance. The cumulative impacts of incremental change from development on heritage assets and their settings should also be actively managed. Development proposals should avoid harm and identify enhancement opportunities by integrating heritage considerations early on in the design process.

Ensuring the on-going protection of the historic environment is best managed through conventional planning applications having regard to development plan policies (alongside listed building consents where appropriate), rather than through a blanket permitted development route with limited prior approval criteria.

Q2.3 Do you agree that, in conservation areas only, the right should allow for prior approval of the impact of the loss of ground floor use to residential?

Agree	
Disagree	X
Don't know	

Please give your reasons:

London's heritage assets and historic environment are irreplaceable and an essential part of what makes London a vibrant and successful city, and their effective management is a fundamental component of achieving good growth.

For these and other reasons set out above in our response to Question 2.2 we do not support the application of the permitted development rights in conservation areas.

The architectural, historic and heritage value of buildings is not limited to the ground floor of buildings. It also includes other fabric including any upper floors. In conservation areas, how a building presents to the streetscape as a whole is important and contributes to the identified significance of that area. Changes of use can have impacts on ground and upper floors of heritage assets through modifications required to accommodate the new residential use. These impacts are best considered through conventional planning applications having regard to development plan policies (alongside listed building consents where appropriate), rather than through a blanket permitted development route with limited prior approval criteria. This is the best mechanism to ensure that the significance of the whole asset is taken into account in reaching a decision – it is important to note that the requirement for planning permission is not the same as refusal and the vast majority of permissions are approved where the proposal is appropriate.

Q3.1 Do you agree that in managing the impact of the proposal, the matters set out in paragraph 21 of the consultation document should be considered in a prior approval?

Agree	
Disagree	X

Don't know	<input type="checkbox"/>
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Please give your reasons:

Notwithstanding our objection to the principle of this blanket permitted development right, we consider that the matters for consideration in prior approval set out in paragraph 21 of the consultation are insufficient to address the negative unintended consequences of the proposed new rights.

Further details are provided in our response to Question 3.2 below.

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

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Please specify:

The government's proposed PDR will give rise to significant negative impacts and should not be introduced. The matters for consideration in prior approval set out in paragraph 21 of the consultation are insufficient to address the negative unintended consequences of the proposed new rights. Details of the potential impacts are set out below.

1. Impact on London's nationally significant and other strategically important office locations

The proposed new permitted development rights would threaten the future sustainability of London's nationally significant office locations and other strategically important office locations in London and will significantly damage the contribution of these areas to the London and UK economy and employment.

The output of the Central Activities Zone (CAZ), Northern Isle of Dogs (NIOD) and a 1km fringe around them stood at just under £228bn in 2017, accounting for nearly 53% of London's output and just under 13% of UK output¹. The CAZ and NIOD together contain more than 1.3 million office jobs². The ten CAZ boroughs (incorporating much of London's nationally significant office space) contained more than 20 million sq.m. of office floorspace in 2019/20³. This equates to more than three quarters of London's total office stock and approximately one fifth of the total in England & Wales⁴.

In recognition of London's nationally significant office locations, the government exempted these areas from the permitted development rights when they were first introduced in 2013. The exemptions were replaced in 2019 by specific Article 4 Directions by the relevant boroughs, supported by strategic and local evidence⁵.

The government's proposals for Class E to residential PDR will occur at the worst possible time. Central London's economy has been severely impacted by the Covid-19 pandemic and will be in the process of recovering from this as the PDR come into force. While there are emerging trends that could affect the nature of office working and the extent of remote working, as well as broader cyclical and structural shifts in demand for office space as a result of the pandemic, the extent of this and its impact on the need for office space in central London has yet to emerge

¹ GLA Economics, The Evidence Base for London's Local Industrial Strategy – Final report, February 2020

² Ramidus Consulting. London Office Policy Review, June 2017

³ Valuation Office Agency. Non-domestic rating: stock of properties including business floorspace, 2020

⁴ Valuation Office Agency, 2020 op cit and GLA analysis

⁵ See Mayor of London, Strategic evidence to support London borough Article 4 Directions in London's nationally significant office locations, February 2018

fully and there are a wide variety of potential scenarios, including situations where office demand remains high.

Central London has the highest residential property prices in the country⁶. There is also substantial evidence that average capital values for residential use in the CAZ exceed average values for office use. While there are some limited localised exceptions where the opposite is the case, there is a degree of volatility in office rental values over time; it is likely therefore that at different points on the business cycle residential values could exceed office values in all areas within the foreseeable future⁷. Introducing PDR to convert offices here would therefore lead to substantial loss of office space. The dwellings that would be developed in central London as a result of the proposals would also be unaffordable to the vast majority of Londoners and would fail to make a significant contribution toward affordable housing.

This could undo the careful work of years of master-planning and place-making in London's Opportunity Areas (such as Kings Cross-St Pancras, Vauxhall Nine Elms Battersea, and the Lower Lea Valley including Stratford) which have brought forward a mix of both residential and employment in places well-connected to public transport. Offices and other commercial uses could be converted to residential use, undermining efforts to create vibrant mixed-use areas with high quality employment opportunities.

In 2013 when PDR was first introduced, the government rightly exempted London's nationally significant office locations from office to residential permitted development rights. In 2019, the exemptions were replaced by specific Article 4 Directions by the relevant boroughs, supported by strategic and local evidence. To safeguard these nationally important functions and their contribution to the London and UK economy and employment it is essential that these areas are either exempted from the new rights, or the existing Article 4 Directions for these areas are extended to apply to new Class E. For further details please see our response to Question 5 below.

2. Impact on the vitality, viability, adaptation and diversification of London's international shopping, leisure and tourism destinations including the West End

The government's proposals would result in significant harm to the West End and other shopping, leisure and tourism destinations across the capital through uncoordinated piecemeal conversions of commercial uses to residential and undermine their contribution to the economic and social recovery of London and the UK. Westminster's economy – the majority of which sits within the West End – has an estimated contribution of £57bn GVA, with the West End's retail district alone seeing (pre-pandemic) sales estimated at £9bn⁸. In 2019, London accounted for 55 per cent of all inbound visitor spend to the UK⁹, with the shopping, leisure and tourism offer of the West End and Knightsbridge playing a significant role in the attractiveness of the capital to international visitors.

In places like the West End and Knightsbridge, which are important retail destinations for international visitors, the proposal could result in the loss of substantial amounts of commercial

⁶ In England and Wales, seven of the top ten local authorities with the highest median house prices are wholly or partly within the Central Activities Zone (CAZ). All boroughs that are wholly or partly within the CAZ are in the top 17 local authorities with the highest median house prices.
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/medianhousepriceforationalandsubnationalgeographiesquarterlyrollingyearhpssadataset09>

⁷ This is explored further in the 2018 GLA paper "Strategic evidence to support London borough Article 4 Directions in London's nationally significant office locations":

https://www.london.gov.uk/sites/default/files/strategic_evidence_to_support_london_nationally_significant_office_locations_final.pdf

⁸ West End Good Growth: Identifying future growth scenarios for Oxford Street and the West End, 2018:

https://www.london.gov.uk/sites/default/files/20181129_gla_wcc_wegg_arup_final_report_released.pdf

⁹ Visit Britain: <https://www.visitbritain.org/visitor-economy-facts>

floorspace, in particular from the flagship stores that anchor the retail function of the area and contribute significantly to the vitality of central London. While it is recognised that these areas – including flagship stores – will continue the ongoing shift to more experiential and service-based commercial activities, the PDR would have the opposite effect, potentially reducing the West End to a series of ground floor show rooms and high-end residential lobbies.

It is vital that the strategic contribution that the West End and other shopping, leisure and tourism destinations across the capital make to the economy, culture and identity of the capital is promoted and enhanced by supporting a balanced mix of commercial, cultural and residential uses. This requires careful management which is best undertaken collectively by the local planning authorities, the Mayor, Business Improvement Districts and other stakeholders. In contrast, the government's proposals would result in significant potential harm to the West End and other significant shopping, leisure and tourism destinations in London through uncoordinated piecemeal conversions from commercial uses in Class E to residential, undermining their vitality and viability, and their contribution to the economic and social recovery of London and the UK.

3. Impact on town centres and high streets

The proposals are contrary to sustainable development and will undermine London's economic and social recovery.

Town centres and high streets are at the heart of the community and central to the economic and social recovery from the impacts of the Covid-19 pandemic. At a time when people want to support their high streets and are more reliant on local services, it is vital that communities have the ability to decide how to plan their local area in the way that suits them best.

The proposed permitted development rights undermine their adaptation to become vibrant, successful locations for a range of business, culture, civic and community activities complemented by well-planned housing and mixed-use development, delivered through the planning system. The proposals put at risk the social and economic functions of our high streets, town centres and the commercial heart of cities at the worst possible time.

The proposals will result in a free for all, dependent on the financial interests of the individual property owner without any ability to reflect the collective (economic, social and environmental) interests of the community which are at the heart of sustainable development. Active commercial uses and the jobs they support will be at risk of simply being turned into higher value housing use. The introduction of piecemeal residential development on the ground floor will risk creating sterile high street frontages, impacting negatively on their sense of place and weakening their attractiveness as places to visit, work and interact. A vicious cycle would then be set in train.

Of course, London's high streets and town centres will need to continue to adapt as a result of the Covid-19 pandemic, but how this should best be achieved will vary from place to place. In some town centres, if there is a surplus of retail space, there may be opportunities to revise town centre boundaries and identify new sites for housing delivery. Where local plans identify these locations, the transition can be managed to optimise high quality housing delivery – permitted development on the other hand encourages sub-optimal conversion schemes as set out elsewhere in this response.

In other places, repurposing stores as offices to meet demand for working closer to home may occur. In some places, a more targeted form of permitted development might be appropriate, where supported by the borough. Introducing the proposed PDR would, however, undermine the potential for high streets to recover. They could become pepper-potted with commercial premises spread thinly over a wide area, with no cohesive centre or sense of vitality. Small customer-facing businesses such as solicitors and recruitment agencies who occupy upper floors could lose their premises. The shops and services that people rely on for everyday items could disappear and high streets could lose their function as places that bring people together,

exacerbating issues of loneliness, anxiety and poor mental health – issues that have been worsened by the isolation created as a result of the Covid-19 pandemic.

Footfall for town centres and high streets is drawn from wide catchment areas. The marginal 'benefit' to footfall derived from a single additional housing unit at ground floor level will never outweigh the negative impacts including the disruption of businesses and jobs, the loss of space to allow new businesses to start-up and innovate, and the creation of a sterile rather than active high street frontage, unless the commercial space is genuinely surplus to requirements. But there are no criteria in the government's proposals to take account of whether the commercial space is genuinely surplus or conversely whether the loss of the space could impact on the sustainability of the town centre or high street to provide access to goods and services, including for vulnerable groups.

In London, the planning system has been delivering sustainable development and responding to the needs of the market – both commercial and housing – by ensuring sufficient space for commercial uses in town centres and high streets whilst delivering high quality, housing and mixed use development. Almost 30 per cent of London's housing capacity on large sites is located within or on the edge of a town centre – providing capacity for 197,000 homes over the first 10 years of the new London Plan¹⁰.

By allowing uses in Class E to change to residential through permitted development, the proposals would not respond to the needs of the commercial market and ensure that there is sufficient space in sustainable locations for business to grow and thrive.

The matters for consideration in prior approval set out in paragraph 21 do not address key aspects concerning the impact of the change of use on the provision of services within Use Class E and impacts on the sustainability of town centres, high streets and other strategically important business locations. Additional conditions to address these impacts are essential (please see suggested conditions below).

4. Impact on businesses, jobs and people's livelihoods

Evidence indicates that existing PDR has impacted negatively on occupied business space, causing disruption to businesses, jobs and people's livelihoods, damaging the economic and social recovery of London and the wider UK. Data from the London Development Database (LDD) indicates that only about 33 per cent of the floorspace affected to date by office to residential prior approvals was vacant while 67 per cent was occupied or part occupied¹¹

Outside the CAZ boroughs¹² a quarter (25 per cent) of the total office stock that existed in 2013 received prior approval for office to residential PDR over the period 2013-2020 and 13 per cent – about 850,000 sqm – of the total office stock was actually converted to residential through implemented prior approvals¹³.

The government's proposals have a much wider scope than existing PDR, including all areas in central London that were exempt from the office to residential conversions introduced in 2013 and conceivably, the proposal could put any of London's two million office jobs at risk of displacement or disruption. If the same percentage of office stock is converted through Class E to C3 PDR in the next 5 years (ie 13 per cent) across London as a whole, then 3.4 million sq.m.

¹⁰ Source: London Strategic Housing Land Availability Assessment 2017

¹¹ London Development Database, GLA analysis 2021. This is based on a 25 per cent sample of sites in the LDD where the occupancy status was known

¹² The calculations of impact 2013-2020 are based on areas outside the CAZ because these areas did not benefit from the exemptions to PDR from the outset in 2013. Whilst some areas outside of the CAZ boroughs did benefit from Article 4 Directions to remove PDR, a significant amount of prior approvals had been granted prior to the Article 4 Directions being put in place.

¹³ Source: London Development Database and GLA analysis

of offices could change to residential, of which an estimated 2.3 million sq.m. (67 per cent) could conceivably be occupied prior to this. At an average employment density of 10 sqm per worker, this would mean more than 200,000 jobs could be disrupted in London.

Based on what has occurred to date, it is reasonable to estimate that 10 per cent of office stock would be converted to residential via the government's proposals in the next 5 years. This would equate to a total of 2.6 million sq.m. of office floorspace and around 175,000 jobs disrupted. The impact could be significantly higher, however, and an upper range of 20 per cent of office stock (equating to 5.3m sq.m. and 350,000 jobs) is also feasible.

The proposed new permitted development rights would have a negative impact on light industrial space and associated jobs. There is strong evidence of demand for industrial and related uses in London¹⁴ which are essential to support London's economic function. This type of commercial space also provides relatively affordable space for SMEs including arts, cultural and creative businesses, as well as providing a diverse range of employment for Londoners. But values in residential use far exceed those in light industrial use and there is a major risk of more sustained loss of light industrial uses associated with the new proposed rights with a particular negative impact on London's town centres and high streets and particular economic sectors which are vital to a city's eco-system.

We acknowledge the importance of housebuilding to the UK economy and particularly GVA, but ultimately the government's proposed approach will not deliver a resilient and sustainable economic base. It will lead to spiralling costs of securing commercial premises due to a lack of supply and will also lead to business disruption particularly due to the need for grow-on space for expanding businesses.

5. Absence of a test for 'surplus to requirements' and 'vacancy'

Paragraph 5 of the consultation document states "Where there is a surplus of retail floorspace, quality residential development will help diversify and support the high street". And paragraph 17 states "The right would allow for the building, or part of the building, to change use, rather than lying vacant". However, there are no tests within the matters for consideration set out in paragraph 21 that would ensure that the use in Class E is genuinely "surplus" to requirements or that the building in question is "lying vacant". (Note that vacant space is not necessarily surplus because some level of vacant space provides a critical role in allowing markets to respond to demand, while preventing rent inflation)¹⁵.

In London there is an estimated 26.3 million sq.m. of floorspace in office use, and 15.3 million sq.m. of floorspace in retail/service use¹⁶. Vacancy rates for offices in the West End (5.7%)¹⁷ and the City (7.2%)¹⁸ remain low compared to an average of 11% across the UK's regional office markets¹⁹. Similarly for retail/leisure space, vacancy rates in London (9.6%) are low relative to Great Britain (12.7%) as a whole²⁰.

Given London's particular circumstances with relatively low commercial vacancy rates and high average residential values compared to commercial²¹, the new proposed rights will impact

¹⁴ CAG Consulting. London Industrial Land Demand Study, 2017

¹⁵ Ramidus Consulting. London Office Policy Review, 2017, paragraph 7.5.11

¹⁶ Valuation Office Agency. Non-domestic rating: stock of properties including business floorspace, 2020

¹⁷ Savills Commercial Research, West End Office Market Watch, December 2020

¹⁸ Savills Commercial Research, City Office Market Watch, December 2020

¹⁹ Savills Commercial Research, Market in minutes: UK Regional Offices, November 2020

²⁰ Source: Local Data Company, 2020

²¹ Mayor of London, Strategic evidence to support London borough Article 4 Directions in London's nationally significant office locations, February 2018

negatively on occupied business floorspace and the availability of competitively priced commercial space suitable for occupation by SMEs.

6. Affordable housing

Based on the government's proposals, Class E to C3 permitted development would not make any provision towards affordable housing. To address acute housing needs and alleviate overcrowding and homelessness, delivering more genuinely affordable housing is a key strategic issue for London. Meeting the identified need for circa 43,500 affordable homes per year, will require an increase in affordable housing contributions from all sources. All schemes in London are expected to maximise the delivery of affordable housing and make the most efficient use of available resources. This is critical to enabling London to meet the housing needs of its workforce and maintain the function and resilience of the city. As set out in question 1, the GLA estimate a loss of £2.8 billion (and potentially more) in affordable housing contributions over the next 5 years should this right be introduced as part of the current planning system. The proposals anticipate that affordable housing would be delivered through the new Infrastructure Levy. As indicated in our response to Question 1 above, we have significant reservations about the proposed new levy, and the government's proposals, if implemented, would fail to meet the housing needs of Londoners.

7. Site Optimisation

As discussed in question 1, the proposed PDR would miss out on opportunities for significant housing delivery where sites have already been identified for redevelopment for residential or residential-led mixed use (in some instances including the existing on site uses). Going down the permitted development route - existing building footprints, layouts and scale - fails to realise a site's optimum potential benefit which can only be achieved through masterplans or design considerations that would account for the sites' features and context and enable appropriate higher density development. It is this process that ensures sites are optimised in terms of housing delivery. Given the national housing crisis that we face and constrained land supply, it is essential that all sources of supply – if appropriate for housing delivery – are used to best effect.

8. Housing design quality

Permitted development has already demonstrated a clear inability to deliver high-quality well-designed homes as highlighted by the government's own impact assessment as well as independent research²². Consideration of light and noise impacts, together with the new requirement to meet national space standards are not sufficient to deliver the quality homes of the type, size and tenure required to meet the diverse range of Londoners needs. Through PDR there remains no mechanism to assess essential design considerations around outdoor private or communal amenity space, access and inclusion, privacy, or energy efficiency, for example – all of which are necessary to ensure quality internal environments.

On larger sites, opportunities would be lost to secure wider place-making objectives such as improved permeability, access, or the introduction of green space. Additionally, where a site's redevelopment is supported, the proposed PDR risks conversion solely to residential use rather than a mix of uses – such as workplaces, convenience shopping or local services – which may be necessary for sustainable place-making.

²² RICS, Assessing the impacts of extending permitted development rights to office-to-residential change of use in England, May 2018 <https://www.rics.org/globalassets/rics-website/media/knowledge/research/research-reports/assessing-the-impacts-of-extending-permitted-development-rights-to-office-to-residential-change-of-use-in-england-rics.pdf>

Communities may lose confidence in the planning system and become more resistant to development proposals as they experience the negative impacts of individual conversions through PDR and the cumulative negative impacts of widespread conversions

9. Contributions to infrastructure

Whilst the government's proposals indicate that permitted development may be required to contribute to the proposed Infrastructure Levy (subject to the outcomes of the white paper), we have significant reservations about the proposed new Infrastructure Levy, including in the context of affordable housing. We are concerned that in the absence of a size limit for permitted development (see response to Question 1), and uncertainty about the operation of the proposed new Infrastructure Levy, the cumulative impact of small and large scale conversions of uses currently in Class E to residential will place significant pressure on all types of infrastructure. The proposals, as presented in the consultation document, are not supported by an adequate mechanism to secure appropriate provision for, or contributions to, the infrastructure that is required.

10. Impact on health services and other social infrastructure

The Mayor and Chair of London Councils wrote to the Secretary of State in August 2020 highlighting concerns about the inclusion of health services, creches, day nurseries and day centres within Class E. This means that existing health services, creches, day nurseries and day centres are already at risk of loss to other uses within Class E. The new proposed permitted development rights will further threaten the provision of social infrastructure accessible to the local community including medical or health services (including GPs' surgeries), creches, day nurseries or day centres which fall within Class E.

The loss of these services will have an impact on all Londoners but is especially likely to disproportionately affect disabled Londoners, children and older Londoners, people who are pregnant, new parents, and Londoners on lower incomes. Women – who are disproportionately responsible for childcare, caring responsibilities for adult relatives and shopping for daily essentials²³ – are also more likely to see more disruption than men from the changes proposed. The Government's proposals should be subject to a full Equalities Impact Assessment (see also comments on Question 6.2).

We urge the government to rethink their approach to Use Class E and to remove categories E(e) and E(f) from Use Class E.

11. Impact on industrial areas and industrial uses

London depends on a wide range of industrial, logistics, waste management and related uses that are essential to the functioning of its economy and for servicing the needs of its growing population, as well as contributing towards employment opportunities for Londoners. It is vital that these activities can continue to operate without encroachment from sensitive uses like residential, especially in a dense urban setting like London.

We support the part of paragraph 21 which includes a requirement to consider the impact on the intended occupiers from the introduction of residential use in an area which is important for heavy industry and waste management but request that it is expanded:

- (a) With a specific reference to logistics/distribution services – which are critical to the effective functioning of London's economy and which frequently require access at all times of day and night.

²³ GLA Intelligence, Equality, diversity and inclusion evidence base for London, June 2019: <https://data.london.gov.uk/dataset/equality--diversity-and-inclusion-evidence-base>

- (b) With a specific reference to the impact on the operational requirements of industrial logistics/distribution and waste management facilities (in addition to the impact on intended residential occupiers).

This approach would be in line with the 'agent of change' principle in Policy D13 of the Mayor's new London Plan and paragraph 182 of the NPPF which states "Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established."

Our concerns in relation to the negative impact of the proposed new permitted development rights on light industrial space is set out under point 4 above.

Recommendations and mitigations

Given the significant negative impacts identified above, **the government's proposed PDR should not be introduced**. Instead, the government should be seeking to devolve permitted development powers to Mayoral authorities including the Mayor of London so that more nuanced and place-specific PDR can be drawn up, in collaboration with local authorities and other stakeholders.

If the government seek to pursue national PDR, the proposed changes should be **delayed for at least a year** in order to give boroughs sufficient time to introduce targeted Article 4 Directions supported by evidence. The Government should consult with local planning authorities to establish a reasonable timetable for undertaking non-immediate Article 4 Directions and should expedite any modifications to those Article 4 Directions in order to avoid delays to their implementation. This would ensure that London's nationally significant office locations, other strategic office locations, town centres and industrial areas and their contribution to the London and UK economy and employment are safeguarded.

The Secretary of State also has the power to amend existing Article 4 Directions. This could be used to **transfer existing Article 4 Directions** that currently cover office to residential (and other) conversions in appropriate places (central London, town centres, etc).

If the government do decide to implement their proposals, some of the **impacts could be improved from the current proposals by including the following:**

- a) A maximum size threshold - no more than 150 square metres
- b) Incorporating conservation areas within the areas excluded from the permitted development right
- c) Removing categories E(e) and E(f) from Use Class E, to limit the impact on social infrastructure and put in place mechanisms to stop their conversion into other Class E uses and then on into residential.
- d) Under the "Matters for local consideration through prior approval" set out in paragraph 21 of the consultation proposals, amend the final bullet point criteria to read:

"the impact on the intended *and existing* occupiers from the introduction of residential use in an area the authority considers is important for heavy industry, *logistics/distribution* and waste management."
- e) Providing additional matters in prior approval conditions including, but not limited to:
 - (i) Maximising the delivery of affordable housing in line with policies in the development plan

- (ii) Criteria relating design quality in new homes (in addition to conditions related to minimum space standards)
- (iii) Contributions towards necessary infrastructure (in line with statutory tests for development contributions)
- (iv) Local Planning Authorities should have due regard to the potential impact²⁴ of a proposed conversion on:
 - the adequate provision of services of the sort that may be provided by a building falling within Class E, unless it can be demonstrated that the building is surplus to requirements and there is no reasonable prospect of the building being used to provide such services
 - where the building is located in a town centre, high street or a strategically important business location, on the sustainability of that town centre, high street or strategically important business location.

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

Agree	X
Disagree	
Don't know	

Please give your reasons:

If the government chooses to implement this new permitted development right regardless of our concerns, then the prior approval application must be subject to an appropriate fee. We are very concerned that boroughs' planning departments will be further under-resourced and it is essential that the fees attached to prior approvals and lawful development certificates are commensurate with the work involved. Fees should be calculated per dwellinghouse as they are for change of use planning applications. Many of the new prior approval processes will be of an equivalent complexity to that of a planning application. The proposed fees are insufficient and should match the fees for a full planning application. Additional fees should apply if a size threshold for permitted development rights is not incorporated. If however a size threshold of 150 sq.m. is incorporated (as suggested in our response to Question1) then prior approvals should be charged the standard fee for a planning application. See also our response to Question 4.2 below.

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

Yes	
No	X
Don't know	

Please give your reasons:

²⁴ This wording draws on the existing conditions within the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, clause paragraph M.2(1)(d)(i) and the Town and Country Planning (General Permitted Development) (England) Order 2016, paragraph 8, amendment PA.2.(1)(b)(iv).

The fee per dwellinghouse must be sufficient to address the costs to the local planning authority in dealing with the prior approval application (see also our response to Question 4.1). The proposed fees are insufficient and should match the fees for a full planning application.

Q5 Do you have any other comments on the proposed right for the change of use from Commercial, Business and Service use class to residential?

Yes	X
No	

Please specify:

Additional comments with regard to: Safeguarding London's nationally significant office locations and other strategically significant office locations

Q6.1 Do you think that the proposed right for the change of use from the Commercial, Business and Service use class to residential could impact on businesses, communities, or local planning authorities?

Yes	X
No	
Don't know	

If so, please give your reasons:

Please see our response to Q3.2 for impacts on businesses and communities.

Impacts on local planning authorities

The proposals impact on the ability of local planning authorities to plan with their communities for sustainable development that supports positive economic, social and environmental outcomes whilst addressing potential negative impacts of development. This impact is exacerbated by the absence of criteria related to matters such as affordable housing, infrastructure, prospect of use for activities within Class E and the impact on the sustainability of town centres, high streets and other business locations.

The proposals will further impact the effective implementation of boroughs' Local Plans including adopted and emerging Local Plans which have not been developed in ways that consider the loss of office and other commercial floorspace that would result from the proposals. These Local Plans could fail to meet objectively assessed need for commercial uses at a time when there is a pressing need to support economic recovery. Similarly, where sites have been identified as suitable for large scale redevelopment for residential use and permitted development fails to optimise the site's potential for housing delivery, this may have knock on effects for the delivery of housing targets.

The PDR could also stall the delivery of large sites, if individual landowners decide to convert their premises in ways that would undermine or require substantial alteration of wider schemes.

The government's proposals will result in uncoordinated conversions of commercial uses to residential and will therefore have a direct impact on boroughs' ability to meet demand for offices

and other commercial floorspace through their Local Plans in line with the National Planning Policy Framework. Similarly the government's proposals could undermine site allocations and the delivery of Good Growth if areas subject to significant conversions become dormitory areas with no local jobs or services.

Local planning authority resources are also impacted by the additional workload to deal with prior approval applications. The proposed fees are insufficient and should match the fees for a full planning application.

Local planning authorities' resources are also impacted by needing to replicate existing Article 4 Directions, the case for which has already been established. The Secretary of State has the power to amend existing Article 4 Directions. This could be used to transfer existing Article 4 Directions that currently cover office to residential (and other) conversions in appropriate places (central London, town centres, etc).

Change of use from commercial to residential through PDR could also impact on business rates income for boroughs given the differential between council tax and business rates for similar sized properties in many commercial uses.

Q6.2 Do you think that the proposed right for the change of use from the Commercial, Business and Service use class to residential could give rise to any impacts on people who share a protected characteristic?

Yes	X
No	
Don't know	

If so, please give your reasons:

By not making appropriate provision towards affordable housing, the government's proposals for Class E to C3 permitted development would impact negatively on several groups who share a protected characteristic. High housing costs in London affect private and social renters more than owner occupiers. Low quality-housing is more common in the private rented sector. Social renting is more prevalent among Black and Bangladeshi Londoners than other ethnicities. Private renting is relatively more widespread among non-British/white Irish Londoners, and people from the other Asian and other ethnic groups. Younger, lower-income and disabled Londoners, as well as recent migrants to London, are more likely to be renting. Many groups face distinctive challenges around housing, including disabled Londoners, migrants, refugees and asylum seekers, gypsies and Irish travellers and older BAME and LGBT Londoners²⁵.

Groups under-represented in London's workforce include older Londoners, mothers, young black men, Pakistani and Bangladeshi women, and disabled Londoners. In London, women are less likely to be self-employed than men, facing barriers to entrepreneurship²⁶.

By giving rise to negative impacts on London's businesses, jobs, people's livelihoods and the availability of commercial space to support new business start-ups and entrepreneurial activity, the government's proposals will impact negatively on the groups identified above to secure employment opportunities.

²⁵ Equality, Diversity and Inclusion Evidence Base for London, GLA, 2019

²⁶ Equality, Diversity and Inclusion Evidence Base for London, GLA, 2019

Research for the GLA²⁷ has highlighted the importance of high streets (and the mix of commercial, business and service uses that they contain), for vulnerable groups including those with protected characteristics. High streets offer local and accessible economic opportunities including employment for marginalised Londoners as much as for highly skilled people seeking full-time employment. High streets are important gathering spaces for marginalised and underrepresented groups. Visitors to high streets include a significant proportion of job-seekers, elderly people, young people and recent immigrants. The study reported that 51% of visitors to high streets are not in employment, compared with 27% across London. High streets provide crucial social infrastructure and social services for Londoners. Both social infrastructure and shops often go beyond their 'formal' role by offering various forms of support and care to high street users. Almost 40% of small businesses interviewed performed some kind of social function. The government's proposals will impact negatively on these uses and the vulnerable groups who depend on them.

The loss of social infrastructure services that fall within Use Class E including medical or health services (including GPs' surgeries), creches, day nurseries or day centres will have a negative impact on all Londoners but is especially likely to disproportionately affect disabled Londoners, children and older Londoners, people who are pregnant, new parents, and Londoners on lower incomes. Women – who are disproportionately responsible for childcare, caring responsibilities for adult relatives and shopping for daily essentials²⁸ – are also more likely to see more disruption than men from the changes proposed.

If PDR impacts on local authorities' ability to secure sustainable outcomes around transport, there could be resultant implications for air quality and congestion which disproportionately impact on lower income households, including Londoners with protected characteristics.

The Government's proposals should be subject to a full Equalities Impact Assessment.

Supporting public service infrastructure through the planning system

Q7.1 Do you agree that the right for schools, colleges and universities, and hospitals be amended to allow for development which is not greater than 25% of the footprint, or up to 250 square metres of the current buildings on the site at the time the legislation is brought into force, whichever is the larger?

Agree	
Disagree	
Don't know	

Please give your reasons:

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

²⁷ Mayor of London. High Streets for All. December 2017

²⁸ GLA Intelligence, Equality, diversity and inclusion evidence base for London, June 2019: <https://data.london.gov.uk/dataset/equality--diversity-and-inclusion-evidence-base>

Agree	
Disagree	
Don't know	

Please give your reasons:

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

Yes	
No	
Don't know	

Please specify:

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

Agree	
Disagree	
Don't know	

Please give your reasons:

Agree in principle subject to protections for Green Belt, MOL, playing fields, neighbouring properties and uses and ensuring the new enlarged facilities make provision for sustainable access by walking, cycling and public transport.

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

Yes	
No	

Please specify:

--

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	
No	
Don't know	

If so, please give your reasons:

--

Q9.2 Do you think that the proposed amendments to the right in relation to schools, colleges and universities, and hospitals, could give rise to any impacts on people who share a protected characteristic?

Yes	
No	
Don't know	

If so, please give your reasons:

--

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	
No	
Don't know	

If so, please give your reasons:

--

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

Yes	
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No	
Don't know	

If so, please give your reasons:

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	
No	

Please give your reasons:

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	
No	

If not, please give your reasons as well as any suggested alternatives:

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

Yes	
No	

Please give your reasons:

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

Yes	
No	

Please give your reasons:

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Q15 Do you agree the Secretary of State should be notified when a valid planning application is first submitted to a local planning authority and when the authority anticipates making a decision? (We propose that this notification should take place no later than 8 weeks after the application is validated by the planning authority.)

Yes	
No	

Please give your reasons:

--

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	
No	

Please give your reasons:

--

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

Yes	
No	

Please specify:

--

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

Yes	
No	

Please specify:

--

Q18 Do you think that the proposed amendments to the planning applications process for public service infrastructure projects could give rise to any impacts on people who share a protected characteristic?

Yes	
No	

If so, please give your reasons:

--

Consolidation and simplification of existing permitted development rights

Q19.1 Do you agree with the broad approach to be applied to the review and update of existing permitted development rights in respect of categories 1, 2 and 3 outlined in paragraph 76 of the consultation document?

Agree	X part
Disagree	X part
Don't know	

Please give your reasons:

Agree in principle to the proposals identified under category 1 (the right is no longer required) and category 2 (where the right is unchanged by the amendments to the Use Classes Order and therefore no amendment is necessary).

Disagree with the approach under category 3 where the right is proposed to be replaced by the new proposed permitted development right from the Commercial, Business and Service use class to residential. As indicated in our response to Question 1 through to Question 6.2, we consider that the new proposed permitted development rights will have significant negative unintended impacts on London's nationally significant office locations, town centres, high streets, businesses, jobs and people's livelihoods. In appropriate circumstances in line with national policy, local planning authorities have introduced Article 4 Directions to remove the permitted development rights for selected commercial uses to residential (including commercial uses such as offices, retail and light industrial which are now subsumed within Use Class E). Further details and potential mitigations are set out in our responses to Questions 1 to 6.2.

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

Yes	X
No	

Please specify:

Criticisms have been made of the specific wording of the regulations for the new Use Classes Order. These should be reviewed to ensure that the wording is sufficiently specific and does not lead to the potential for premises to fall in to more than one Use Class.

Q20 Do you agree think that uses, such as betting shops and pay day loan shops, that are currently able to change use to a use now within the Commercial, Business and Service use class should be able to change use to any use within that class?

Agree	X
Disagree	
Don't know	

Please give your reasons:

Support the approach that betting shops and pay day loan shops should be able to change use through permitted development to any use within the Commercial, Business and Service use class (but not vice versa).

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

Agree	
Disagree	X
Don't know	

Please give your reasons:

Under category 4 where the government proposes that the scope of any rights is to be broadened by providing for the change of use from a greater range of uses, such as from the Commercial, Business and Service use class for example, **these proposals should be subject to a further round of consultation.**

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

Yes	
No	X

Please specify:



End of survey

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

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