

Appendix A

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	
Don't know	N/A

Please give your reasons:

The key issue is to protect primary shopping frontages to ensure the prime retail function of centres is sustained. The loss of large or small retail units in prime retail frontage areas would adversely affect the vitality and viability of shopping centres and potentially dilute the critical mass and concentration of retail units, which is critical to the functioning of centres.

However, if large units are wholly converted they can fundamentally change the character of an area e.g. a significant office to residential conversion could make an area feel more residential and have an impact on neighbouring uses which then causes conflict. There could also be negative implications on parking locally, noise (for both types of user) etc.

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 Qualified
Disagree	
Don't know	

Please give your reasons:

Yes but we would like to qualify this by stating there are also important non designated wildlife sites including local wildlife sites, local geological sites and local nature reserves where the right should also be restricted.

The objective of encouraging more people to live in town centres is supported and the Gedling Borough Council has local plan policies which permit residential accommodation on upper floors within town and local centres. However, the right should be subject to prior approval within key shopping areas in relation to change of

use of ground floor class E units to residential. Prime retail frontage within town and local centres are often identified within local plans as primary retail frontages or primary shopping areas. It is important that the core retail function is not diluted or undermined through change of use to residential at ground floor level through the loss of prime retail frontage leading to large groupings of non-retail frontage. A negative consequence of unrestricted change of use from class E to residential is likely to be blank or bland frontages with no display windows, which could adversely affect the vitality or viability of town and local centres. Whilst, strong retail centres might be expected to retain their prime retail function due to market forces in our experience this may not be the case for centres that are underperforming where proposals for the change of use to residential has occurred within prime retail frontages and for key landmark building for example in Netherfield Local Centre.

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

Agree	
Disagree	X
Don't know	

Please give your reasons:

No there is a risk of harm to the heritage assets in town centres arising from these proposals. The change of use of historic shop fronts at ground floor level to residential is likely to adversely affect the historic character of the Conservation Area where shop fronts are a prominent feature. It would be likely to lead to the installation of non-traditional shop windows for example upvc with opaque or tinted glazing for example along with the replacement of shop doorways with non-traditional styles and materials. This would result in bland frontages and harm the historic character of such areas. There is an added risk that over time there would be irresistible pressure to permit changes to shop fronts as residential owners seek adaptations such as blocking up windows or porch extensions to meet their personal needs. However, permitted development for changes of use from commercial to residential at first floor level and above may be acceptable in principle but should be subject to prior approval. Please see our comments on the matters for consideration in relation to Question 3.1.

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	X Qualified
Disagree	
Don't know	

Please give your reasons:

As stated in our response to question 2.2, we consider that the right should not be applied to Conservation Areas due to the likely harm to the historic character of the area. The key issue is to protect prime retail frontages including those within Conservation Areas that positively contribute of the historic character of the area. The right could be applied to upper floor premises, as it is the potential loss of ground floor units and consequent harm to the character of the Conservation Area at ground floor level, which is the major concern. However, if Government is minded to permit the exercise of this right in Conservation Areas then it should be subject to the prior approval process.. Please see response to question 3.1 below.

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	X Qualified
Disagree	
Don't know	

Please give your reasons:

Yes with the addition of additional considerations as set out under question 3.2 below.

The proposal to make the right subject to prior approval in areas the authority considers is important for heavy industry and waste management is supported but should be extended to all key employment sites. The reasons for this are firstly, there are a number of key employment sites that are vital to the local economy of the area and in the case of Gedling Borough Council, which is a Green Belt authority such sites, are in relatively short supply. Secondly, sites do not fit into categories defined as simply heavy industry or waste management. In reality, typical industrial estates can have a mix of old and modern traditional industrial and warehousing uses where it is not desirable to locate sensitive residential uses. These employment sites defined in local plans should remain safeguarded for industrial and warehousing uses. It is also important to ensure that existing businesses are not stymied in extending or expanding through being proximal to sensitive residential uses.

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

Yes	X
No	
Don't know	

Please specify:

Yes. The changes are felt, most likely, to lead to the conversion of better quality, newer commercial buildings to residential. If not handled carefully this will lead to unappealing stock remaining for commercial uses, thus negating the desire to reinvigorate town centres and make them more attractive. In time this will lead to tension with neighbours as older sites are redeveloped, and in order to make the development stack up financially, is likely to lead to more residential development. This will lead to a complete change in character of commercial areas.

It is stated that new housing units created will meet space standards but this must be enforced or bettered. To create balanced communities in centres, there needs to be diversity of provision to encourage all sectors of society to move in. Proper accessibility provisions need to be made as well as spaces for people to work (hence the need to better the minimum space standards)

Parking provision needs to be considered. Whilst it may be desirable to think people in town centres do not require personal transport this is not likely to be the case and provision for parking will be required.

There is a need to consider the neighbouring uses. There is likely to be remaining commercial buildings around the new residential. How will they take deliveries? Will there be curtailments as a knock on to the businesses? Will neighbouring businesses be forced to close and move (when there may not be suitable other premises about)? How will services be provided – schools, doctors etc. in areas that are largely commercial and never designed for residential?

More specifically, the Consultation paper states that “in recognition of the conservation value that retail frontage can bring to conservation areas the right would allow for prior approval of the impact of the loss of the ground floor use to residential”. However, the prior approval matters set out in paragraph 21 omit any reference to the need to protect and conserve Conservation Areas. The key issue in town centres regardless of whether they fall within Conservation Areas is the need to protect the prime retail frontage and in the case of conservations areas in addition the historic character of the area. Whilst it is considered that the PD right should not be applied in Conservation Areas, if Government is minded to implement these proposals then it should be through the prior approval process.

Whilst our concerns relate largely to town centres and in particular the need to protect prime retail shopping areas and frontages, we are also concerned that the proposals could lead to the loss of important local suburban retail businesses thereby leaving people with little choice but to travel further for top up shopping and day to day shopping needs.

To address the concerns set out above, we have the strong view that the right should only be exercised through the prior approval process with the following considerations to be included as part of the prior approval matters:

- (i) on adequate provision of services of the sort that may be provided by a building falling within Class E, but only where there is a reasonable prospect of the building being used to provide such services; and
- (ii) where the building is located in a key shopping area, on the sustainability of that shopping area and;
- (iii) the potential adverse impacts on the heritage significance of a Conservation Area and/or its setting.

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:

Yes, as this would capture all proposals

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

Yes	X
No	
Don't know	

Please give your reasons:

Agreed £96 fee per dwelling up to a maximum of 50 dwellings would be a reasonable threshold within the context of Gedling Borough Council.

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:

We have set out elsewhere the importance of protecting key shopping areas and in particular prime retail frontages in order to protect the core retail function of the centre. In this context, it is stressed that residential uses are by their nature very different to the main town centre uses combined within use class E. The potential to create “dead frontage” at ground floor level with non-display windows is likely to be the physical result and a major concern. A further concern is that the introduction of residential uses in prime retail locations at ground floor level is likely to lead to issues raised about the compatibility between commercial uses and their impact on the amenity of neighbouring ground floor residential uses. For existing commercial business it also leads to concerns about the proximal location of sensitive residential uses on existing and future business activity. There is a concern that an unintended consequence of the proposals is that “footfall” could actually fall along some prime retail frontages.

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:

Yes the right to change use from class E to residential in key shopping centres and on unprotected employment sites are likely to impact on existing businesses through the proximity of residential uses.

A key issue and potential unforeseen consequence of these proposals is the effect overtime on the “critical mass” of services and facilities that has been historically concentrated in these centres. There is a risk that the proposals would dilute these concentrations over time and result in potential “bad neighbours” being co-located in close proximity giving rise to bonafide concerns from residents over commercial activities and leading to complaints such as noise or other nuisance.

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:

On a positive note, the encouragement of residential uses on upper floors or on the periphery of centres could lead to positive outcomes for people with limited or less

mobility. However, changes of use should be governed to achieve the required space standards and good design as there is a risk that some developers would meet national space standards or achieve the desired quality of housing sought which could have a disproportionate effect on low-income households including those groups with a protected characteristic.

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	X
Disagree	
Don't know	

Please give your reasons:

Generally agree, however, there is the potential for loss of playing fields, which are protected open spaces and potential implications including highway impacts and parking problems because of expansion leading to greater numbers of students.

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

Agree	X qualified
Disagree	
Don't know	

Please give your reasons:

Agree although the height of the existing buildings may also be a relevant alternative threshold as some extensions would be designed to match the existing roof height.

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

Yes	
No	X
Don't know	

Please specify:

No 6 m is sufficient depending upon the height of existing buildings on the site.

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

Agree	
Disagree	
Don't know	X

Please give your reasons:

Don't know.

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

Yes	
No	X

Please specify:

No

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	X

If so, please give your reasons:

Don't know.

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	X

If so, please give your reasons:

Don't know.

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	X

If so, please give your reasons:

Don't know

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	
No	
Don't know	X

If so, please give your reasons:

Don't know

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	X
No	

Please give your reasons:

Yes but there should be no reduction in the consultation period for 3rd parties (currently 21 days) in the interests of transparency and stakeholder involvement.

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	X
No	

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

Yes if they are regarded as essential facilities.

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

Yes	X
No	

Please give your reasons:

Yes subject to there being a mechanism to ensure prompt response from consultees within the prescribed timeframes. It is suggested that Government legislates for the introduction of a monitoring system to monitor the performance of consultees in responding within the prescribed consultation period.

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

Yes	
No	X

Please give your reasons:

No it is considered that the consultation period should remain as 21 days in the interests of transparency, parity and probity. Obtaining responses from consultees within the existing 21 days is often quite challenging and the proposal to reduce the consultation period would in our view lead to problems later in the planning process and less transparency.

In order to meet the prescribed deadline it is suggested Government legislates for a mechanism to ensure consultee compliance with the revised deadlines.

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	X

Please give your reasons:

No this would add unnecessary bureaucracy and burdens on LPAs who should be trusted to deliver without the need to notify. Additional monitoring could be achieved

by an extra category of performance returns on development management for public service applications.

It is suggested that an automatic appeal against non-determination if no mutual Extension of Time (EOT) is agreed and subsequent appeal could be prioritised by PINS.

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	X
No	

Please give your reasons:

Yes in general. Any pre-application discussions need to be led by the applicants and LPAs should be able to charge for the pre-application process. The LPA would need to engage with consultees. This requires the buy in of third party consultees into the pre-application process.

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	X
No	

Please specify:

Yes, the post determination process is as important as the application process. LPAs should be encouraged to use creative wording of conditions and to minimise conditions that would prejudice the delivery of schemes. LPAs should also receive proportionate fees to undertake the required work for the applications.

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

Yes	X
No	

Please specify:

It is suggested that PINS could prioritise subsequent appeals for public service applications.

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:

Don't know

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
Disagree	
Don't know	

Please give your reasons:

Agree, we generally support the principle of reviewing, streamlining and simplifying PD rights. It is particularly important that the existing PD rights are consolidated into a more usable and understandable set of rights.

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

Yes	X
No	

Please specify:

The entire PD and prior approval process is far more complicated than the planning application process. It is difficult for members of the public to understand. We would question whether this is another tier that is not really needed?

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	<input type="checkbox"/>
------------	--------------------------

Please give your reasons:

In general betting shops and payday loans are a retail/commercial use that in our view adds little to the vitality and viability of the town centre and therefore movement to other uses would not be an issue and would be a positive.

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

Agree	<input checked="" type="checkbox"/>
Disagree	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Please give your reasons:

Yes, in order to provide a more simplified process.

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

Yes	<input checked="" type="checkbox"/> Qualified
No	<input type="checkbox"/>

Please specify:

In general, the simplification of PD rights is good. However, we have concerns about the potential for PD rights to result in the co-location of conflicting uses or “bad neighbours” between different uses resulting in problems and complaints. Our main concern however, is the potential and maybe unintended consequence of diluting the critical mass of retail services and facilities in centres especially weaker centres. Historically such uses have formed a “cluster” within established centres benefitting from co-location and linked shopping trips. We are not opposed in principle to residential being encouraged in town centres outside of primary shopping areas (other than on upper floors) and being located in more peripheral parts of the centre and can also see particular benefits for certain groups especially less mobile people from town centre living.

End of survey

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