

# Planning Committee

15 September 2023

Agenda item number 15

## Department of Levelling Up, Housing and Communities- Consultation on proposed changes to permitted development rights

Report by Head of Planning

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### Summary

The Department of Levelling Up, Housing and Communities (DLUHC) is consulting on proposed changes to permitted development rights to support housing delivery, the agricultural sector, businesses, high streets and open prisons. The report summarises the proposed changes and includes proposed responses to the questions asked in the consultation.

### Recommendation

To note the report and endorse the nature of the proposed response.

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## 1. Introduction

- 1.1. On 24 July 2023 the Department for Levelling Up, Housing & Communities (DLUHC) published a consultation document [Consultation on additional flexibilities to support housing delivery, the agricultural sector, businesses, high streets and open prisons; and a call for evidence on nature-based solutions, farm efficiency projects and diversification - GOV.UK \(www.gov.uk\)](#) on proposed changes to national permitted development rights (PDRs) to allow additional flexibilities to support housing delivery. PDRs cover development that can be done without planning permission.
- 1.2. The consultation runs to 25 September 2023.

## 2. Proposals and comments

- 2.1. This consultation contains proposed changes to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
- 2.2. The consultation states the proposals aim to support housing delivery, the agricultural sector, businesses and high street through extended national PDRs, which '*...are an important tool to support growth by providing certainty and removing the time and money needed to submit a planning application.*' The proposals out for consultation represent significant amendments to national PDRs and include new and extended rights to allow for the conversion of a variety of non-residential uses to housing and for extensions to non-domestic buildings.
- 2.3. As part of the consultation, DLUHC are also seeking evidence and feedback on nature-based solutions, farm efficiency projects and diversification of farm incomes.
- 2.4. The proposed changes to PDRs are set out below. The impacts of the proposed changes for the protected landscape of the Broads have been considered and there has been consultation with colleagues in the National Parks. Whilst the comments on the principles of many of the proposed changes are shared across the other protected landscapes, the detailed comments apply to the Broads area.
- 2.5. Due to the number of changes proposed and to make it easier to follow, a commentary and the proposed response are provided immediately after each proposed change.  
**Class E (commercial, business and service use) to dwellinghouses.**
- 2.6. Class E land uses include shops, restaurants, offices, gyms and light industrial buildings. In August 2021 a new PDR came into effect allowing conversion to a residential use, but

subject to a Prior Approval process, whereby the LPA would be able to take into account certain specified factors and require a planning application if it was not satisfied that there would be no impact. A maximum floorspace of 1,500 sqm was also imposed, (approximately equivalent to 20 x two bedroom homes) and a requirement that the premises had been vacant for a continuous period of three months before the application. The National Parks and the Broads were excluded from this PDR, meaning it does not apply in these areas.

- 2.7. The consultation proposes extending this PDR to National Parks and the Broads. It also seeks views on increasing the floorspace limits from 1,500sqm to 3,000sqm or potentially removing them altogether, as well as dispensing with the requirement for the premises to have been vacant for three months.

#### Commentary

- 2.8. The new Class E was introduced in August 2021 and combined a number of previous separate Classes and uses. It was deliberately drawn widely to provide maximum flexibility for businesses, whilst the accompanying PDR for conversion to a residential use would cover substantial buildings. The purpose of Class E was to promote regeneration, particularly in urban areas. National Parks and the Broads were excluded.
- 2.9. The proposed amendments suggest that the focus of the PDR has changed, with the priority now being the promotion of housing growth.
- 2.10. No justification has been provided for extending this PDR to the National Parks and Broads. The National Planning Policy Framework (NPPF) restricts new housing in National Parks and the Broads in order to protect their special qualities (footnote 7). It is acknowledged that this does result in house price inflation and availability and affordability challenges for local people due to the pressure for second and holiday homes, but it does enable the LPA to prioritise local need through the Local Plan process. It is unlikely that these areas could contribute significantly to housing growth, but the loss of business and commercial facilities (arising from conversion to residential) would have an adverse impact on the local communities in terms of reduced employment opportunities and access to services, whilst the visitor offer would also be reduced were cafes and shops to be lost. There would be a disproportionate impact in the smaller settlements with fewer facilities, however the effect on the viability and vitality of rural communities, including those dependent on the tourist economy, would affect the whole area.
- 2.11. It is considered that allowing the conversion of Class E buildings to housing as proposed would exacerbate the existing availability and affordability problems, undermine strategies to meet local housing need and result in the loss of services and facilities, thereby increasing rural disadvantage and isolation. It is recommended that a strong objection be raised to this proposal.
- 2.12. It is noted that the PDR under Class E are subject to a Prior Approval process and this should be retained if the proposals are taken forward.

## **Class C1 (hotels, boarding houses & guest houses) to dwellinghouses**

- 2.13. Class C1 land uses are primarily holiday and visitor accommodation. The proposed change would allow any of these premises to change to a dwellinghouse, but the consultation does suggest that this could be made subject to the Prior Approval process, whereby the LPA would be able to take into account certain specified factors and require a planning application if it was not satisfied that there would be no impact. It also states that the dwellinghouse would be restricted to use as a permanent dwellinghouse only, and there would be no PDR allowing use as a short term let or as a House in Multiple Occupation (HMO).

### **Commentary**

- 2.14. In April 2023 DLUHC issued a consultation on the creation of a new Use Class to cover short-term lets (primarily holiday properties) and proposed PDRs to allow conversion of a dwellinghouse to a short term let and vice versa. A [report](#) on this was presented to the 26 May 2023 Planning Committee. As noted in the consultation “...The scale and nature of England’s guest accommodation offer has changed significantly over the last 10 to 15 years. In particular, we have seen the growth of innovative platforms that provide new opportunities for guest accommodation and more choice for consumers (resulting in the growth of short term lets)”. The current proposal appears to be related to this, in that it introduces flexibility to respond to changing demands within the holiday sector, focusing this time on the more traditional accommodation providers.
- 2.15. The availability of a wide range of holiday accommodation is a key factor in supporting a prosperous visitor economy, and the flexibility to adapt quickly to changing demands is important, however as demand changes there will be properties that are unable to adapt or be adapted. The reasons might include their location or layout, or the changing character of the neighbourhood in which they are located. Conversion to a dwellinghouse is often the most appropriate alternative use and for many older properties this would be a reversion to an earlier use.
- 2.16. The concerns in planning terms arise from the potential loss of visitor accommodation, because insufficient holiday stock will create demand for new holiday accommodation, resulting in the loss of local properties to short term lets and/or pressure for new build accommodation. It is proposed that the new PDR would be subject to a Prior Approval process, which would enable the LPA to assess the impact of the proposed conversion on the local holiday market and require a planning application if there was considered to be an impact. On this basis, the proposed change is considered to be acceptable.

## **Class M (betting offices, hot food takeaways etc) and Class N (amusement arcades and casinos) to dwellinghouses**

- 2.17. Class M land uses include betting and pay day loan shops, hot food takeaways and launderettes, whilst Class N includes amusement arcades and casinos. There are existing PDRs that allow the conversion of these to dwellinghouses, with a maximum converted floorspace of 150sqm (approximately equivalent to 2 x two bedroom

homes). The National Parks and the Broads were excluded from this PDR, meaning it does not apply in these areas.

- 2.18. The consultation proposes extending this PDR to National Parks and the Broads, whilst removing launderettes so that planning permission would be required for their conversion. It also seeks views on increasing the floorspace limits from 150sqm to 300sqm or potentially removing them altogether.

#### **Commentary**

- 2.19. The land uses in Classes M and N are primarily urban activities, so the concerns identified in respect of Class E around extending the PDR to include National Parks and the Broads do not apply to same extent. There is concern, however, about the suitability of some of these premises for conversion to a residential use, particularly given that the PDRs would cover the use only and not any physical changes that might be required to facilitate the new use and which would need planning permission. It is likely that an amusement arcade or casino would require substantial works before it was suitable for occupation as a dwellinghouse(s).
- 2.20. Given the very limited contribution that conversion of such buildings could make to housing growth, it is hard to see any real benefit arising from the proposed change, but equally, and given the limited application in the Broads, no grounds for objection either.

#### **Class G (premises in a Class E use, plus betting shops and pay day loan shops) to dwellinghouses**

- 2.21. Another existing PDR, Class G allows the conversion of the space above certain non-residential premises to up to two flats, subject to Prior Approval of certain elements. The consultation seeks views on extending this to a wider range of premises (which are not specified) and increasing the maximum conversion to four flats.

#### **Commentary**

- 2.22. The extension of this existing PDR to a wider range of commercial buildings raises no significant concerns in respect of the impact on the Broads. It is worth noting, however, that the loss of storage and/or ancillary space can limit the ability of a building to accommodate a commercial use, so there are impacts. As it would have a limited application in the Broads, however, it is not proposed to make any comments.

#### **Class Q (agricultural buildings) to dwellinghouses**

- 2.23. There are existing PDR that allow the change of use of redundant agricultural buildings to dwellinghouses, subject to various conditions and limitations. Currently the PDRs allow up to three larger homes (>100sqm) with a cumulative floorspace of up to 465sqm or up to five smaller homes (<100sqm) or a mixture up to a maximum of five with a cumulative floorspace of up to 865sqm. These PDRs do not apply in the National Parks, the Broads and certain other areas.

- 2.24. It is proposed that these PDRs be simplified by introducing a single maximum floorspace limit of either 100sqm or 150sqm per home, with a maximum of 10 homes on one conversion with a cumulative floorspace of up to 1,000sqm. It is also proposed to extend the PDR to cover those areas currently excluded.
- 2.25. Separately within this section, the consultation also proposes a new PDR to allow the construction of rear extensions on agricultural buildings as part of the change of use. This element, however, would not apply in the National Parks and the Broads.

#### Commentary

- 2.26. Agriculture is an intrinsically rural activity and whilst farm buildings may be located close to the historic farmhouse, which may be located in a settlement, many more are situated in locations which are remote from local facilities and infrastructure. The NPPF is clear that “The purpose of the planning system is to contribute to the achievement of sustainable development” (para 7), advising that “To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities” (para 79), cautioning that “Planning policies and decisions should avoid the development of isolated homes in the countryside ...” (para 80) other than in exceptional circumstances. These are identified and include, at c), “development which would re-use redundant or disused buildings and enhance its immediate setting.” It is considered that extending Class Q, which would allow the conversion of any farm building to up to 10 homes, to some of the most rural areas of the country is contrary to the objectives and principles of the NPPF and undermines the locational strategy for new housing.
- 2.27. The NPPF restricts new housing in National Parks and the Broads in order to protect their special qualities including landscape beauty. In addition to the sustainability objections, the proposal to extend the provisions of Class Q to the Broads and the National Parks has the potential to have a significant adverse impact on these landscapes. This would arise in a number of ways. Traditional farm buildings make an important contribution to the character of the landscape, and their conversion erodes this. Significant alterations are often required to make them suitable for habitation and these interventions similarly erode character and impact adversely on appearance. The ancillary development associated with housing, for example paved parking areas, sheds, washing lines and other paraphernalia, introduce a further domestic presence into an otherwise developed location, detracting from its character and the sense of wildness. It is considered that proposals are incompatible with the protection of the landscapes, particularly given the scale of the development that would be allowed.
- 2.28. As with the changes to Class E above, no justification has been provided for extending this PDR to the National Parks and Broads. It is unlikely that these areas could contribute significantly to housing growth and whilst the extent to which the landscape is harmed by any conversion will depend on site specific factors, it is unclear why this cannot continue to be dealt with through the planning process. It is recommended that a strong objection be raised to this proposal.

## Class Q (agricultural buildings) – extend Class Q to include other rural buildings

- 2.29. The current Class Q only covers agricultural buildings on an agricultural unit, so it is proposed to extend this to include other buildings on an agricultural unit that are not in a solely agricultural use, for example, those that are rented out for storage. Farm shops would be specifically excluded. The change would allow any of these premises to change to a residential use.
- 2.30. The current Class Q also excludes buildings that were previously used for agriculture but are no longer part of an agricultural unit. It is proposed to extend the PDR to allow these to be converted to a residential use under Class Q, subject to the landowner providing evidence that the last known use of the building was for agricultural use as part of an agricultural unit.
- 2.31. There is no provision within Class Q for the conversion of non-agricultural buildings to a residential use, for example those used for forestry or equestrian purposes. The consultation seeks views on extending the PDRs to include such buildings within Class Q.
- 2.32. Prior approval of access and location/siting would be required under Class Q and minimum space standards would apply.

### Commentary

- 2.33. The proposed extension to Class Q would grant PDR for housing to a wide range of buildings in the countryside, including part-agricultural, past agricultural, forestry, equestrian, telecoms and pumping station buildings. The issues identified above in respect of Class Q (2.26 – 2.28) would apply to this proposal, however there are also additional concerns.
- 2.34. The proposal does not include a requirement for the subject buildings to be unused, obsolete or otherwise unrequired, so the extended Class Q could result in the loss of viable, current uses (both commercial and leisure) to housing, particularly as residential is a high value land use so there would be a strong financial incentive for landowners. Many of these sorts of uses are only permitted initially (i.e., granted planning permission) on the basis of having demonstrated that a countryside location is essential, so their conversion and the loss of the use would reduce diversity of the rural economy. There would also be pressure for replacement facilities, which would increase the impact on the rural landscape.
- 2.35. Again, no justification has been provided for extending this PDR to these additional buildings and, given the limited contribution they could make to housing growth and the in principle conflict with sustainability objectives, it is unclear why this cannot continue to be dealt with through the planning process. The proposal to require Prior Approval of access and location/siting could limit conversion of the most remote buildings, but does not address the fundamental conflicts. It is recommended that a

strong objection be raised to this proposal. If it is to be taken forward, it is recommended that the National Parks and the Broads should be excluded.

### **Class R (agricultural buildings) to a flexible commercial use to promote agricultural diversification – extend to cover other rural buildings**

- 2.36. The current Class R permits agricultural diversification through a change of use to a flexible commercial use, which could include storage and distribution (Class B8), hotels (Class C1) or shops and offices (Class E). The consultation proposes extending this to cover other buildings in a rural use, for example equestrian or forestry buildings, as well as extending the type of suitable use to include outdoor sports and recreation (Class F2), fitness uses (Class E) and general industrial (Class B2).
- 2.37. It is also proposed to allow a mixed use to take place in such conversions, combining, for example, a hotel and farm shop and to increase the permitted area of floorspace from 500sqm to 1,000sqm. Prior approval is required where more than 150sqm of floorspace is changing use, with a notification process applying below this.

#### **Commentary**

- 2.38. The purpose of the existing Class R is to support agricultural diversification and allows conversion to a very wide range of uses, some of which are more usually town centre activities, for example shops and offices. The operation of some of these uses in rural areas is considered to be in conflict with the NPPF objective of sustainable development, as well as undermining strategies to reinvigorate urban centres, but Class R is already in place so no comment on this can be made.
- 2.39. However, no justification has been provided for why Class R should be extended to cover other rural buildings, without restriction, or to widen the uses to include, for example, a general industrial use. It is considered that development arising from the proposed changes would potentially have a significant and adverse impact on the countryside as a whole and it is recommended that a strong objection be raised to this proposal. If it is to be taken forward, it is recommended that the National Parks and the Broads should be excluded.

### **Agricultural development – amendments to the existing PDR**

- 2.40. There are existing PDR that allow certain development to take place on agricultural holdings. The nature and size of the development varies depending on the size of the holding and the works need to be “reasonably necessary for the purposes of agriculture in that unit”.
- 2.41. On agricultural units of 5 hectares or more, a ground area of up to 1,000sqm can be covered by buildings or extensions and it is proposed to increase this by a further 500sqm. Prior approval is required for the siting, design and external appearance of any building constructed under this PDR.
- 2.42. On agricultural units of less than 5 hectares there is no PDR to construct a building, however extensions are permitted. These are restricted to the lower of the following



two limits - a maximum of a 20% increase over the original cubic capacity or an overall area limit of 1,000sqm of any building extended. It is proposed to increase these PDRs to allow a 25% increase or a maximum area of 1,250sqm. Currently this PDR applies to sites designated as a Scheduled Monument and it is proposed to remove this.

#### Commentary

- 2.43. The agricultural sector benefits from a wide range of long established PDRs covering development “reasonably necessary for the purposes of agriculture in that unit” and these have been supplemented more recently by Class Q and Class R outlined above, which are aimed at enabling diversification.
- 2.44. No justification has been provided for why the existing PDRs for on-farm activities are insufficient. Given the scale of change that is now covered by the various PDRs and the cumulative impact that this could have on an area, in terms of landscape impact, access and amenity, it is considered that further change should be dealt with through the planning process. It is recommended that an objection be raised to this proposal. If it is to be taken forward, it is recommended that the National Parks and the Broads should be excluded.

#### Part 7, Class A – extensions to buildings in Class E

- 2.45. There are existing PDRs that allow extensions of up to 50% of the original floorspace or 100sqm (whichever is the lesser) to buildings in a business use; the consultation proposes the doubling of these. These PDR apply to the National Parks and the Broads, but the limits are halved and it is not proposed to increase these.

#### Commentary

- 2.46. This proposal does not affect the Broads and it is not proposed to make any comments.

#### Part 7, Class H – Industrial and warehousing extensions

- 2.47. There are existing PDRs that allow for the erection, extension or alteration of an industrial building or warehouse. This is subject to conditions and limits, including a maximum of 200sqm gross floorspace for a new building, except in the National Parks and Broads where this is halved. The consultation does propose changing the limits in the protected areas but doubling them outside.

#### Commentary

- 2.48. This proposal does not affect the Broads and it is not proposed to make any comments.

#### Part 4, Class B – Markets

- 2.49. There are existing PDRs that allow for the temporary use of land for up to 28 days per calendar year, of which up to 14 can be used for markets, motor car and motorcycle racing. The consultation proposes increasing the number of days that markets can be held and seeks view on an appropriate number up to 28.

#### Commentary

- 2.50. This proposal is unlikely to have a significant impact on the Broads and it is not proposed to make any comments.

#### Prisons

- 2.51. Amendments were made in 2021 to the existing PDRs which allow for the erection, extension, or alteration of schools, hospitals and closed prisons; it is now proposed to extend this to cover open prisons to support an increase in capacity.

#### Commentary

- 2.52. This proposal does not affect the Broads and it is not proposed to make any comments.

### 3. Conclusion, proposed response to consultation and recommendation

- 3.1. The proposed changes are significant and would result in a wide range of development (particularly housing) falling under PDR and whilst some of these would be subject to a Prior Approval process, the principle of the acceptability of the development would be established. There are a number of concerns with the proposals.
- 3.2. Firstly, the development of housing under PDRs would conflict with the strategy set out in the NPPF to achieve sustainable development and the commitment therein to a planned system. It is acknowledged that there is a role for 'windfall' housing (i.e., housing that is not identified through the Local Plan) as part of the delivery process, however unallocated sites are subject to the usual planning application process involving public consultation and a full consideration of the impacts. Allowing such development under PDRs removes this engagement, as well as promoting unplanned development without consideration of the impacts or contribution towards local infrastructure.
- 3.3. In addition to the conflict with national planning policy, a number of the proposals contradict the Government's own approach to development in the protected landscapes, including the Broads and National Parks. The 2019 National Landscape Review considered how planning worked in these areas, concluding that the protections provided under the existing system were "essential" and that "The current Permitted Development Rights (PDR) system should also be reviewed and, if necessary, further PDRs should be added to the list of those currently withdrawn within national landscapes to ensure that the full application process applies before determining planning approval." The importance of the planning process in these areas was recognised and supported by Government in their 2022 response which was clear: "This balancing exercise must be carried out differently in protected landscapes, to ensure their statutory purposes and special qualities are meaningfully protected. This involves giving greater weight to their special qualities in planning policies, procedures, and decisions...we recognise the special role that protected landscapes hold within the planning system." No justification has been provided for the change of approach, which

proposes loosening rather than strengthening planning controls in the protected landscapes.

- 3.4. Finally, there are significant concerns about adverse the impacts on the character and appearance of the protected landscapes of unrestricted conversion of agricultural and other rural buildings to housing, arising from both the physical changes required to facilitate this and the domestication of the local landscape. Within the settlements and communities, the conversion of offices, shops, cafes, hotels and many other buildings to a private residential use will put pressure on these already vulnerable community and service facilities, with a consequent impact on the viability of rural areas and the visitor economy.
- 3.5. Within the protected landscapes family, the proposals in this consultation have been met with dismay. The proposed changes have been described by the North York Moors National Park Authority as having greater potential to damage the special qualities of National Parks and the well-being of the communities within them than any other change to the planning system since its inception in 1947. The Yorkshire Dales National Park Authority, which manages a landscape with over 6,000 stone barns, have warned that the proposals would 'decimate' the National Park; and Dartmoor National Park Authority have stated the proposals would 'destroy' nationally protected landscapes and cause untold harm to local communities and the local economy. The New Forest National Park Authority predicts that "The introduction of these new PD rights within protected landscapes would support an immediate shift towards unrestricted residential use of agricultural buildings, shops and visitor accommodation" whilst one of the local MPs in the Lake District has warned that the proposals would lead to National Parks becoming a 'developer free-for-all'.
- 3.6. The Broads area, with its tightly drawn boundary, established floodplains and proximity to urban centres, does not have the same development pressures as the upland landscapes which cover extensive and remote areas, but the objections around the disapplication of national policy and suspension of the standard planning processes in order to allow housing in unsuitable locations are the same.
- 3.7. It is recommended that the comments set out in section 2 above are submitted as the formal comment of the Broads Authority.

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