

## **Appendix 1**

### **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**

Published 24 July 2023

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[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 \(www.gov.uk\)](https://www.gov.uk/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)

**Q.1 Do you agree that prior approvals for design or external appearance in existing permitted development rights should be replaced by consideration of design codes where they are in place locally?**

a) Yes

**b) No**

c) Don't know

**Please give your reasons.**

Not all design codes will cover all aspects of design. They may be relatively 'light touch', and therefore there may be aspects of design that are important to consider but that would fall outside the remit of a prior approval if the proposed approach were taken. Instead, consideration of design codes should inform prior approval to the extent that the code addresses specific aspects of design; other aspects should still be considered by the local planning authority.

**Q.2 Do you think that any of the proposed changes to permitted development rights in relation to design codes could impact on: a) businesses b) local planning authorities c) communities?**

a) Yes

b) No

c) Don't know

**Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.**

No comment.

**Q.3 Do you agree that the permitted development right for the change of use from the Commercial, Business and Service use class (Use Class E) to residential (Class MA of Part 3), should be amended to either:**

- a) Double the floorspace that can change use to 3,000 square metres
- b) Remove the limit on the amount of floorspace that can change use
- c) No change**
- d) Don't know

**Please give your reasons.**

Permitted development rights for change of use to residential does not normally require the delivery of or contributions toward affordable housing. The [technical consultation on the infrastructure levy](#) (March 2023) set out that changes of use through permitted development rights will fall within the scope of the new levy. However, the new levy will not be fully rolled out until 2030 at the earliest. If this proposed change goes ahead, more sites could be developed without making contribution to affordable housing and other required infrastructure. The City of London Corporation recognises the acute pressure for affordable housing within London and the wider South East and the importance of providing housing for those starting careers in the City, supporting and servicing our workplaces, and working in our growing hospitality and leisure sectors. Expanding permitted development in the manner proposed may provide some additional homes, however it would be unlikely to make any substantial inroads into tackling the critical affordable housing pressures the capital faces.

The proposal would also be likely to result in the loss of employment space, something that is of critical importance for the City of London. While the City is covered by an Article 4 Direction removing this permitted development right, any expansion of the rights could worsen the impact on the loss of office floorspace should this Article 4 Direction be removed for any reason.

**Q.4 Do you agree that the permitted development right (Class MA of Part 3) should be amended to remove the requirement that the premises must be vacant for at least three continuous months immediately prior to the date of the application for prior approval?**

- a) Yes
- b) No**
- c) Don't know

**Please give your reasons.**

Vacancy tests such as the one in the PDR are designed to ensure that premises are no longer required for their current use. They are one way the planning system ensures that development is sustainable, by seeking to ascertain whether the local commercial occupancy market has demand for the unit in question. Vacancy tests also act as a counterbalance in places where the capitalised value of an E Class use is lower than the value of residential use, which is the case in most places, helping to ensure that the change of use is not simply motivated by the landowner seeking a higher capital return but rather reflects – to some extent – the need for commercial uses. This is important because once a use becomes residential it is incredibly rare for it to return to other uses, and the planning system would in most cases prevent it. Vacancy tests (and tests for the marketing of E Class premises) are a standard and long-standing feature of the planning system. It is appropriate to flex and apply them according to local circumstances, as local planning authorities have up to date evidence informing their Local Plans and can use them to either emphasise the need for Class E uses where there is evidence of demand or to remove them, where change of use would better meet the aspirations and needs of communities. But at a national level the one size fits all approach undermines the plan-led system, potentially undermining rather than supporting local high streets, town centres and city centres such as the City of London.

Instead of removing the vacancy test, it should be extended to a minimum of six months, or replaced by a marketing test.

**Q.5 Do you think that the permitted development right (Class MA of Part 3) should apply in other excluded article 2(3) land?**

- a) Yes
- b) No
- c) Don't know

**Please give your reasons.**

No response. We agree that UNESCO world heritage sites – such as the Tower of London, which adjoins the City of London – should be exempt from this proposed change.

**Q.6 Do you think the prior approval that allows for the local consideration of the impacts of the change of use of the ground floor in conservation areas on the character or sustainability of the conservation is working well in practice?**

**a) Yes**

b) No

**c) Don't know**

**Please give your reasons. If no, please explain why you don't think the prior approval works in practice?**

Conservation areas exist to protect both the architectural and historic interest of a place, and there are many conservation areas where the commercial character of the area is an important part of its history. Requiring consideration of the impacts of the change of use is an important way to establish whether the proposed change of use might undermine the character of the area in a way that causes harm to these conservation areas.

**Q.7 Do you agree that permitted development rights should support the change of use of hotels, boarding houses or guest houses (Use Class C1) to dwellinghouses?**

**a) Yes**

**b) No**

**c) Don't know**

**Please give your reasons.**

Hotels play a vital role supporting London's economy, providing accommodation for and attracting international tourists to the UK, and supporting visitors from other parts of the UK. Within the City of London, a recent study commissioned by the City Corporation has forecast demand for around 350 net additional hotel bedrooms per year in the Square Mile; substantial erosion of hotels to residential use would make delivery of this target much more challenging, given the development constraints faced by the Square Mile and the ongoing and substantial demand for additional office floorspace within the City.

City centres, particularly London, also face ongoing challenges from consumer behaviour in the wake of the Covid pandemic, with a need to create an environment that attracts people back to the office in greater numbers as well as increasing the range and number of visitors who come to central areas. Within the Square Mile, we have launched our Destination City vision, which seeks to transform our leisure and cultural offer and make the Square Mile a key destination. Providing a good range of hotel accommodation is a key pillar to realising this vision, and a permitted development right that allows change of use to residential could substantially undermine these important efforts that will play a key role in ensuring the long term economic sustainability of the City.

Within the City, our dense form of development, high demand for office floorspace and significant conservation constraints mean that new residential uses would not be appropriate for most parts of the Square Mile. This would curtail the operation of the large, densely clustered office buildings in the City, which require overnight servicing and deliveries that could disrupt nearby residents. In order to ensure the City remains at the forefront of driving economic growth we will need to deliver

substantial additional office floorspace over the next 15 years, and change of use from hotels to residential use could result in potential large scale office development sites being undermined by close proximity to new residential use.

**Q.8 Are there any safeguards or specific matters that should be considered if the change of use of hotels, boarding houses or guest houses (Use Class C1) to dwellinghouses was supported through permitted development rights?**

**a) Yes**

**b) No**

**c) Don't know**

**Please give your reasons. If yes, please specify.**

Consideration of the local tourism economy would be a partial safeguard. However, the impact of the loss of any one hotel is in most cases unlikely to be substantial; it is the cumulative loss and the gradual erosion of visitor accommodation that would cause detriment to tourism, something that would be difficult to ascertain on a case-by-case basis. This is why we have a plan-led, evidence-based system that enables consideration of cumulative impacts at a local level, with policies drawn up in response to that evidence.

It is very important that any change of use requires development to national space standards. Without this, the proposed PDR would be likely to result in highly substandard and overcrowded residential blocks. In addition, and as a bare minimum, new homes should have access to adequate daylight and ventilation for all habitable rooms.

The existence of the permitted development right may, in some cases, disincentivise hotel owners from investing in their properties. A vacancy or marketing test would assist in ensuring that hotel uses were generally redundant.

Consideration should also be allowed of the impact on the delivery of strategically important sites and the operations of existing business premises.

**Q.9 Do you think that any of the proposed changes in relation to the Class MA permitted development right could impact on: a) businesses b) local planning authorities c) communities?**

**a) Yes**

**b) No**

**c) Don't know**

**Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.**

The proposed PDR could have a significant impact on businesses in the Square Mile. Given the density of offices here, and the sheer number of office buildings, it is vital that offices are able to be serviced and receive deliveries overnight. This means noise and activity, which additional residential development in the wrong place could seriously undermine. This could curtail the activities of City businesses and the attractiveness of the City as a business destination – undermining economic growth more broadly.

Like many major city centres, the Square Mile is working hard to recover from new patterns of working and shifts in demand for retail and leisure that have been exacerbated in the aftermath of the Covid pandemic. Through our Destination City vision, we are seeking to transform the leisure offer of the City, bringing a wider range of people into the Square Mile at different times of day and throughout the week. Significantly increasing residential uses through the proposed PDR in an unplanned way across the City could harm this, both by reducing the number of hotel bedrooms in the Square Mile (for which there is increasing demand) and by bringing residential uses into areas where we are seeking a more vibrant mix of uses and activities.

**Q.10 Do you think that changes to Class MA will lead to the delivery of new homes that would not have been brought forward under a planning application?**

a) Yes

b) No

**c) Don't know**

**If so, please give your reasons.**

**Questions 11 to 24** relate to detailed aspects of existing permitted development rights that allow change of use from amusement arcades, casinos, pay day loan shops, hot food takeaways, betting offices, and launderettes. The proposed changes to these existing permitted development rights are not considered to have a significant impact on the Square Mile and it is not proposed to respond to these questions.

**Questions 25 to 56** relate to proposed changes to permitted development rights concerning agricultural buildings and their change of use to residential uses. These aren't of direct relevance to the City and it is not proposed to respond to these questions.

**Questions 57 to 62** relate to detailed aspects of existing permitted development rights that would allow larger extensions to business premises, new warehousing, and an increase in the temporary use of land for markets to up to 28 days per year. These are not considered to have a likely significant impact on the Square Mile and it is not proposed to respond to these questions.

**Question 63 to 65** relate to proposed permitted development rights for development on open prisons. These proposals would not have a likely significant impact on the Square Mile and it is not proposed to respond to these questions.

The consultation also issues a call for evidence and a series of questions in relation to how the planning system might better support agricultural land and the rural economy. It is not proposed to respond to this consultation.

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## **Levelling-up and Regeneration Bill: consultation on implementation of plan-making reforms**

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[Levelling-up and Regeneration Bill: consultation on implementation of plan-making reforms - GOV.UK \(www.gov.uk\)](https://www.gov.uk/levelling-up-and-regeneration-bill-consultation-on-implementation-of-plan-making-reforms)

### **Question 1: Do you agree with the core principles for plan content? Do you think there are other principles that could be included?**

No response.

### **Question 2: Do you agree that plans should contain a vision, and with our proposed principles preparing the vision? Do you think there are other principles that could be included?**

Plans should contain a vision, and the emphasis on this and its development through engagement is supported.

However, the approach set out in this section of the consultation also mentions aims, objectives, outcomes, key issues, and context. Legislation (the Town and Country Planning Act 1990) also requires local plans to set out strategic priorities. These different but related terms should be more robustly defined and teased apart, and their relationships set out in guidance.

Visions will also need to be able to develop as plans develop. They should firstly be informed by baseline and characterisation work, which should be the starting point for plan development. Draft visions can be consulted on and shaped by stakeholder input at early stages. However, there is a risk that visions become too fixed too early; evidence should not simply inform measurable outcomes but can also be used to refine visions as plans develop.

The digital template proposed is welcome.

### **Question 3: Do you agree with the proposed framework for local development management policies?**

Broadly, yes.

While we agree that local DM policies should normally enable delivery of the Plan's vision, there is a need for flexibility on this, as some local DM policies may need to address specific matters that are important but aren't necessarily of such significance as to warrant being a part of the vision for the local plan.



There remains uncertainty about where strategic policies in spatial development strategies such as the London Plan fit into the proposed structure. Those places such as London that have strategic plan-making powers should be able to craft DM policies that apply across their area. This approach supports devolution and ensures local authorities can be more efficient and focus on issues relevant locally. It is useful, for example, to have a consistent pan-London approach to affordable housing policy and viability, given the complexity of policies on these issues, and it means that in places such as the City of London (where office demand is the main driver of development) there is not a need to spend time and resources developing and evidencing policies on an important but highly technical issue.

**Question 4: Would templates make it easier for local planning authorities to prepare local plans? Which parts of the local plan would benefit from consistency?**

Templates would assist in the preparation of local plans. For local plans to become part of a truly digital, end-to-end system, it is important to facilitate greater consistency but also to see plans as not simply a series of policies, paragraphs, tables and diagrams. These are merely the ‘front end’ of a local plan, and in the digital age we should treat them as such. Plans also contain many layers of information and evidence, different application at different geographies and to different types of development, expected real-world outcomes, different requirements for different sorts of applications, and a great deal of metadata. While some ‘front end’ templates for local plans would be useful, there is also the potential to develop a comprehensive schema for local plans – something we at the City Corporation have begun initial scoping on – which could inform a system-based approach that allows more comprehensive and real-time monitoring, more flexible use by different users, and more efficient and timely decision-making. We would like to develop this approach with DLUHC and other interested local authorities.

‘Front end’ local plan templates could helpfully set out suggested structures for local plans (with sufficient flexibility). They could assist with template policy wording structures, which would bring rigour and consistency, for example separating expected real-world outcomes contained in a policy from the process requirements (eg the documents that applicants need to submit). Policy writing, while an important skill, is something that many local authority planners only do infrequently, and having templates would assist in focussing skills.

**Question 5: Do you think templates for new style minerals and waste plans would need to differ from local plans? If so, how?**

No response

**Question 6: Do you agree with the proposal to set out in policy that planning authorities should adopt their plan, at the latest, 30 months after the plan preparation process begins?**

Broadly, yes. Local plans currently take too long to develop and are not sufficiently responsive to changing circumstances. A 30 month timetable is ambitious – but we should be ambitious for what the public sector can achieve, particularly for documents as important as local plans.

However, with increased expectations on timing and resourcing from local authorities, there will need to be a similar level of commitment from national government, both to play their part in ensuring planning authorities are suitably resourced and to ensure a more consistent and predictable approach to national policies on issues such as housing need and permitted development rights. Changes at national level affect the plan-making process, can undermine local priorities, and take time and resources from local authorities to analyse and respond to.

Even assuming sufficient resources, there are many reasons why the best of intentions can go awry when crafting a local plan. The timetable should therefore be a firm expectation rather than a requirement that automatically results in penalty or a loss of local control if it is not met.

**Question 7: Do you agree that a Project Initiation Document will help define the scope of the plan and be a useful tool throughout the plan making process?**

Yes.

**Question 8: What information produced during plan-making do you think would most benefit from data standardisation, and/or being openly published?**

Many studies (retail needs assessments; employment land reviews; etc) contain similar approaches to calculating need, with some local flexibilities. Standardisation of data outputs from these would be beneficial.

Map-based data should also be standardised and openly published.

**Question 9: Do you recognise and agree that these are some of the challenges faced as part of plan preparation which could benefit from digitalisation? Are there any others you would like to add and tell us about?**

Broadly agree.

It is a bit of an error to think that plans are static and go out of date quickly. Local plans are often very flexible documents allowing different outcomes in different scenarios based on newer information that is provided with applications or as material considerations that inform decision-making. However, the current system can mean that they can date if not kept under review.

Over-production of evidence is also driven through the potential for legal challenge, not simply because of the potential for challenge at examination.

**Question 10: Do you agree with the opportunities identified? Can you tell us about other examples of digital innovation or best practice that should also be considered?**

At the City of London Corporation we have begun exploring the potential for a standardised back-office schema for local plans, breaking them down into their component parts. This is in the early stages and we have had initial discussions with DLUHC and other local authorities about how we take this forward and what benefits it might bring. We welcome continued discussion on the potential for this approach.

The City Corporation has also undertaken extensive 3D modelling to inform tall building work, including very complex 3D modelling of strategic views and constraints that will directly inform the emerging City Plan.

**Question 11: What innovations or changes would you like to see prioritised to deliver efficiencies in how plans are prepared and used, both now and in the future?**

No response.

**Question 12: Do you agree with our proposals on the milestones to be reported on in the local plan timetable and minerals and waste timetable, and our proposals surrounding when timetables must be updated?**

Yes.

**Question 13: Are there any key milestones that you think should automatically trigger a review of the local plan timetable and/or minerals and waste plan timetable?**

No response.

**Question 14: Do you think this direction of travel for national policy and guidance set out in this chapter would provide more clarity on what evidence is expected? Are there other changes you would like to see?**

The direction of travel is the right one. There will need to be sufficient flexibility to allow for local evidence to be developed.

**Question 15: Do you support the standardisation of evidence requirements for certain topics? What evidence topics do you think would be particularly important or beneficial to standardise and/or have more readily available baseline data?**

Standardisation of evidence requirements is broadly supported, particularly for topics that are common across many different areas. It would be worth looking at economic development needs assessments as a case study; there is already a fair amount of guidance on this and yet there are differing approaches by different authorities and consultants.

Any standardisation needs to factor in spatial differences; understanding how (for example) office markets operate in rural areas and market towns is very different to understanding how they operate in large cities.

**Question 16: Do you support the freezing of data or evidence at certain points of the process? If so which approach(es) do you favour?**

Yes. Freezing data at appropriate stages would assist in smoothing the path of the local plan. Agreeing scope of evidence and methodology at gateway assessments is also sensible; this could focus on those evidence documents where there are standardised approaches.

**Question 17: Do you support this proposal to require local planning authorities to submit only supporting documents that are related to the soundness of the plan?**

Yes.

**Question 18: Do you agree that these should be the overarching purposes of gateway assessments? Are there other purposes we should consider alongside those set out above?**

Yes. Consideration needs to be given to conformity with spatial strategies such as the London Plan; it would be welcome for the Government and the Greater London Authority to work together to align the gateway process with the process for considering general conformity.

**Question 19: Do you agree with these proposals around the frequency and timing of gateways and who is responsible?**

Yes.

**Question 20: Do you agree with our proposals for the gateway assessment process, and the scope of the key topics? Are there any other topics we should consider?**

No response.

**Question 21: Do you agree with our proposal to charge planning authorities for gateway assessments?**

While it is agreed that a properly functioning planning system needs to be properly funded, any additional charges for local authorities should be cost-neutral overall. Currently local authorities pay extensively for public examinations of their local plans; if it can be shown that the gateway process will clearly result in shorter and less expensive examinations and a cost neutral position overall, then the approach set out is reasonable.

**Question 22: Do you agree with our proposals to speed up plan examinations? Are there additional changes that we should be considering to enable faster examinations?**

No response.

**Question 23: Do you agree that six months is an adequate time for the pause period, and with the government's expectations around how this would operate?**

No response.

**Question 24: Do you agree with our proposal that planning authorities should set out their overall approach to engagement as part of their Project Initiation Document? What should this contain?**

Yes – the approach to engagement should be set out in the PID.

**Question 25: Do you support our proposal to require planning authorities to notify relevant persons and/or bodies and invite participation, prior to commencement of the 30 month process?**

Yes, however there needs to be careful consideration of what this stage involves in order to avoid 'consultation fatigue' and give communities a meaningful way to shape the local plan. At this stage it is perhaps most useful to focus not on proposals but on establishing information, views and facts about the area: what people value, what is or isn't working, data that can inform characterisation studies (that can underpin plans and design codes) about places, and data that can inform themes.

It should be recognised, however, that work such as this is time consuming and there could be a lot of information that emerges at this stage with little structure to help analyse information and responses. This stage, therefore, may need to begin earlier in order to meet the 30 month plan preparation timetable.

**Question 26: Should early participation inform the Project Initiation Document? What sorts of approaches might help to facilitate positive early participation in plan-preparation?**

No response.

**Question 27: Do you agree with our proposal to define more clearly what the role and purpose of the two mandatory consultation windows should be?**

Yes. However, during the first window the scope of 'options' work should be made clear. This should be high level, and not required to support different options for all policies, but should rather be about the main spatial approaches and priorities, including the potential trade-offs between different issues and uses.

**Question 28: Do you agree with our proposal to use templates to guide the form in which representations are submitted?**

Yes

**Question 29: Do you have any comments on the proposed list of prescribed public bodies?**

No response

**Question 30: Do you agree with the proposed approach? If not, please comment on whether the alternative approach or another approach is preferable and why.**

No response

**Question 31: Do you agree with the proposed requirements for monitoring?**

Yes.

**Question 32: Do you agree with the proposed metrics? Do you think there are any other metrics which planning authorities should be required to report on?**

Metrics need to be clarified, for example whether they are in relation to completions, approvals or starts. Under a digital planning system all of these should be able to be monitored.

The introduction of Class E has made monitoring much more difficult. The suggested metric for 'net change in employment floorspace' is largely meaningless in this context; office floorspace is very different to gyms and health centres which are very different to cafes or restaurants. Monitoring these uses is very helpful for understanding an area and how it is changing but it is very difficult under a Class E system. The suggestion to use 'employment' also suggests that industrial land would be part of this, and again offices and heavy industry or logistics are very different and respond to different parts of economic demand. Further thought therefore needs to go into how these measures are defined and measured, and how they relate to the evidence requirements for plans.

**Question 33: Do you agree with the suggested factors which could be taken into consideration when assessing whether two or more sites are 'nearby' to each other? Are there any other factors that would indicate whether two or more sites are 'nearby' to each other?**

No response

**Question 34: What preparation procedures would be helpful, or unhelpful, to prescribe for supplementary plans? e.g. Design: design review and engagement event; large sites: masterplan engagement, etc.**

No response

**Question 35: Do you agree that a single formal stage of consultation is considered sufficient for a supplementary plan? If not, in what circumstances would more formal consultation stages be required?**

No response

**Question 36: Should government set thresholds to guide the decision that authorities make about the choice of supplementary plan examination routes? If so, what thresholds would be most helpful? For example, minimum size of development planned for, which could be quantitative both in terms of land use and spatial coverage; level of interaction of proposal with sensitive designations, such as environmental or heritage.**

No response

**Question 37: Do you agree that the approach set out above provides a proportionate basis for the independent examination of supplementary plans? If not, what policy or regulatory measures would ensure this?**

No response

**Question 38: Are there any unique challenges facing the preparation of minerals and waste plans which we should consider in developing the approach to implement the new plan-making system?**

No response

**Question 39: Do you have any views on how we envisage the Community Land Auctions process would operate?**

No response

**Question 40: To what extent should financial considerations be taken into account by local planning authorities in Community Land Auction pilots, when deciding to allocate sites in the local plan, and how should this be balanced against other factors?**

No response

**Question 41: Which of these options should be implemented, and why? Are there any alternative options that we should be considering?**

No response

**Question 42: Do you agree with our proposals for saving existing plans and planning documents? If not, why?**

The transitional approach set out for Supplementary Planning Documents requires improving and further explanation. SPDs are a vital part of the current system, particularly where they pertain to sensitive issues such as planning obligations. LPAs that are at an advanced stage of developing an old-style local plan will be unlikely to be able to fold in all relevant aspects of SPDs into their local plans, and this would in any case not be desirable. Until now it has appeared that they would be unable to review any existing SPDs under the proposed new system. This consultation introduces the concept of "local guidance" which does not appear to be explained anywhere. While under a new system, a three tier system of local plans/supplementary plans/local guidance could work, many local authorities won't



be developing new style local plans for some time, yet reviewing existing SPDs to update them supplementary plans would not be possible as many cover authority-wide issues not related to design. For issues such as planning obligations it is vital that LPAs retain the ability to review SPDs at least until they adopt a new style local plan, or for “local guidance” to be properly defined and given appropriate weight.

**Question 43: Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?**

**Please provide a free text response to explain your answer where necessary. Is there anything that could be done to mitigate any impacts identified?**

No response.