

Supporting Housing Delivery & Public Service Infrastructure

City of Durham Trust Response

PublicServiceInfrastructure&PermittedDevelopmentConsultation@communities.gov.uk

About this Consultation

This consultation document and consultation process have been planned to adhere to the consultation principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation 2016, and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with the law and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. A full privacy notice is included on the next page.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

Please confirm you have read this page. *

Yes	<input checked="" type="checkbox"/>
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Privacy Notice

The following is to explain your rights and give you the information you are be entitled to under the data protection legislation.

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the data controller and contact details of our Data Protection Officer

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at dataprotection@communities.gov.uk.

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

Article 6(1)(e) of the General Data Protection Regulation 2016 (GDPR) provides that processing shall be lawful if processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.

Section 8(d) of the Data Protection Act 2018 further provides that this shall include processing of personal data that is necessary for the exercise of a function of the Crown, a Minister of the Crown or a government department.

The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Ministry of Housing, Communities and Local Government. The task is consulting on departmental policies or proposals or obtaining opinion data in order to develop good effective government policies in relation to planning.

4. With whom we will be sharing your personal data

We will not share your personal data with organisations outside of MHCLG without contacting you for your permission first.

5. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for 2 years from the closure of the consultation

6. Your rights, e.g. access, rectification, erasure

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have all or some of your data deleted or corrected
- d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

7. Storage of your personal data

We are using SmartSurvey to collect data for this consultation, so your information will be stored on their UK-based servers in the first instance. Your data will not be sent overseas. We have taken all necessary precautions to ensure that your data protection rights are not compromised by our use of third-party software.

If your submit information to this consultation using our third-party survey provider, it will be

moved to our secure government IT systems within six months of the consultation closing date (28 January 2021).

8. Your personal data will not be used for any automated decision making.

Please confirm you have read this page. *

Yes	<input checked="" type="checkbox"/>
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Respondent Details

This section of the survey asks for information about you and, if applicable, your organisation.

First name *

John

Last name *

Lowe

Email address

lowejohn81@gmail.com

Are you responding on behalf of an organisation or as an individual? *

Organisation	<input checked="" type="checkbox"/>
Individual	<input type="checkbox"/>

Organisation (if applicable)

City of Durham Trust

Position in organisation (if applicable)

Chair

Please indicate whether you are replying to this consultation as a: *

Developer	<input type="checkbox"/>
Planning consultant	<input type="checkbox"/>
Construction company or builder	<input type="checkbox"/>
Local authority	<input type="checkbox"/>
Statutory consultee	<input type="checkbox"/>
Professional organisation	<input type="checkbox"/>
Lawyer	<input type="checkbox"/>
Charity or voluntary organisation	<input checked="" type="checkbox"/>
Town Council	<input type="checkbox"/>
Parish Council	<input type="checkbox"/>
Community group, including residents' associations	<input type="checkbox"/>
Private individual	<input type="checkbox"/>
Other (please specify):	<input type="checkbox"/>

Please indicate which sectors you work in / with (tick all that apply): *

Education section	
Health sector	
Prison sector	
None of the above	x

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:

There are high risks for historic areas where larger buildings changing use to residential could cause disproportionate negative impact. This would apply to Conservation Areas that are not currently proposed for exclusion. The City of Durham Trust would rather that these key areas are excluded from the proposals (see 2.1 response) but if approved as proposed, a cap on the size of buildings would be essential for all sensitive areas in order to retain localised planning control.

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
Disagree	
Don't know	

Please give your reasons:

The City of Durham Trust strongly supports the proposals that the right should not apply to World Heritage Sites. It also requests that Site settings and buffer zones should also be excluded. It also requests that Conservation Areas are also excluded.

Reasons:

1. It is important to protect the Outstanding Universal Value (OUV) of World Heritage Sites (WHSs) and, in particular, its built expression. Inappropriate change of use could threaten the OUV of a site and thereby World Heritage status itself.
2. Apart from their prime heritage value, WHSs are significant visitor attractions and make a significant contribution to the local and national economy. It is essential that both Sites and their settings/buffer zones are protected from inappropriate development which might otherwise detract from the attractiveness of these areas.

3. It is important for residents and visitors to maintain the range and vitality of shops in Conservation Areas. The full proposals could undermine this if all sensitive historic areas including WHS settings and Conservation Areas are not excluded.

4. Those who know local conditions best are local people and it is a considerable strength of our current planning procedures that they are under the control of democratically-elected local people, albeit operating within a national framework. It is particularly important that planning control remains local as far as possible in WHSs and Conservation Areas..

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

Agree	
Disagree	x
Don't know	

Please give your reasons:

1. It is important for residents and visitors to maintain the range and vitality of shops in Conservation Areas. The proposals could undermine this if all sensitive historic areas are not excluded including Conservation Areas and WHS settings.

2. The Conservation Areas of Durham are especially important in both conserving the townscape and roofscape of the historic city and other historic areas. Retail premises are a very significant part of these areas and full planning control over their use and design is very important and should be maintained. Conservation Areas should be excluded from any increase in permitted development rights.

3. Those who know local conditions best are local people and it is a considerable strength of our current planning procedures that they are under the control of democratically-elected local people, albeit operating within a national framework. It is particularly important that planning control remains local as far as possible in WHSs and Conservation Areas..

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
Disagree	
Don't know	

Please give your reasons:

The City of Durham Trust requests that Conservation Areas are fully excluded from the proposals but if approved as proposed this should apply.

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
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Disagree	
Don't know	

Please give your reasons:

A basic list that needs increasing.

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

Yes	x
No	
Don't know	

Please specify:

The Trust considers that for any sensitive historic areas not excluded from the full proposals (principally if Conservation Areas are not excluded) heritage impact and design should be included to enable local community scrutiny and planning overview.

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	
Disagree	
Don't know	x

Please give your reasons:

In the City of Durham most conversions are for student accommodation and it is unclear how this would be applied to those.

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:

This seems very low in relation to commercial applicants potential gains and a significant loss to Local Authorities.

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	
No	x

Please specify:

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:

Less control and fees for Local Authorities, less control and scrutiny for communities, undermining of some retail interests vital to breadth of city centre provision.

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	
No	
Don't know	x

If so, please give your reasons:

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	x
Don't know	

Please give your reasons:

This potentially could have serious negative impact on the City of Durham because of the scale of the University compared to the rest of the city and its proximity.

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

Agree	
Disagree	x
Don't know	

Please give your reasons:

Any increase may have a negative impact on the City of Durham.

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

Yes	
No	x
Don't know	

Please specify:

There is none that the City of Durham Trust is aware of – impact remains very underassessed.

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

Agree	
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Disagree	x
Don't know	

Please give your reasons:

1. The city of Durham has a prison within the historic core and this should not be given permitted rights – this should apply to any prison close to sensitive historic areas or residential areas.
2. Prisons are usually buildings of substantial height and mass, and can be visually intrusive. Allowing them to expand or add additional buildings could exacerbate such a situation. It could threaten the OUV of Durham’s WHS and thereby World Heritage status itself.
2. Apart from its prime heritage value, the WHS is a significant visitor attraction and make a significant contribution to the local and national economy. It is essential that both Sites and their settings/buffer zones are protected from inappropriate development which might otherwise detract from the attractiveness of these areas.
3. Those who know local conditions best are local people and it is a considerable strength of our current planning procedures that they are under the control of democratically-elected local people, albeit operating within a national framework. It is particularly important that planning control remains local as far as possible in WHSs.

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

Yes	
No	x

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	x
No	
Don't know	

If so, please give your reasons:

Communities will be impacted without the ability to comment and Local Authorities by passed.

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

If so, please give your reasons:

There could be negative impact in relation to older prisons close to or in historic and residential areas in particular. This could adversely impact on communities and by pass Local Authorities.

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

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

Please give your reasons:

The concern is that will be insufficient time for full community scrutiny and Local Authority comment.

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

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

The concern is that will be insufficient time for full community scrutiny and Local Authority comment.

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	x

Please give your reasons:

The reduction is minimal in comparison to the full design and implementation process for a major project and will not speed up delivery. The concern is that will be insufficient time for full community scrutiny and Local Authority comment.

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

Yes	
No	x

Please give your reasons:

The City of Durham Trust does not agree with this proposal.

Reasons

1. Durham's WHS relies on a Coordinator and voluntary staff and many WHSs have very few staff, who are already over-stretched and juggling many priorities. Further, for significant developments, staff may need the approval of the Site's Steering Group or core stakeholders to approve comments. The existing 21 days is already very challenging and the effect of reducing this to 14 days may preclude important comments from being considered in the determination of applications.
2. The proposed reduction in the consultation/publicity period is insignificant when considered in the overall length of a construction project. This proposal will therefore have very little effect on overall development times
3. The concern is that will be insufficient time for full community scrutiny including the City of Durham Trust and Local Authority comment.

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:

The Secretary of State is already failing to support local communities by calling in sensitive applications and it is inconceivable that there is any meaningful purpose in adding to the list of responsibilities. To local organisations like ours and local communities, this feels more like a way of bypassing Local Authorities and local people and centralising control.

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	x

Please give your reasons:

It seems obvious that they will wish to be engaging meaningfully. Given financial and staff pressures on Local Authorities it would be more successful if they were adequately funded in the first instance.

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	x

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	x
No	

Please specify:

Be more sensitive to local concerns, environmental and heritage impacts. Put full sustainability needs at their core.

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	x

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	
Disagree	
Don't know	x

Please give your reasons:

The accompanying text for this consultation fails to make clear what the implications in a way that most will be able to understand. The City of Durham Trust's concerns for the City of Durham remain as - loss of retail, increasing numbers of licenced food and drink premises, increase in conversions to student accommodation.

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

Yes	x
No	

Please specify:

Protecting historic city centres against loss of retail, increasing numbers of licenced food and drink premises, increase in conversions to student accommodation

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	
Disagree	
Don't know	x

Please give your reasons:

Unsure of what the real implications of this are.

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:

Concern over the basis for and real impact of these suggestions.

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.