

Response ID ANON-WVH9-Z88M-5

Submitted to Permitted development rights consultation: changes to support householder development, building upwards, demolition and rebuild, and the installation of electric vehicle charge points and air source heat pumps

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Scope of the consultation

Privacy notice

Personal details

What is your name?

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What is the type of organisation that you work for?

Charity or voluntary organisation

If applicable, what is the name of your organisation?

Organisation:

Council for British Archaeology & Chartered Institute for Archaeologists (joint response)

What is your position in the organisation?

Position in organisation:

Listed Building Caseworker / Policy and Advocacy Manager

Introduction

Changes to the permitted development rights for householder development (Class A, B, C and E of Part 1)

Do you want to complete this section?

Yes

The enlargement, improvement or other alteration to homes (Class A of Part 1)

The enlargement, improvement or other alteration to homes (Class A of Part 1)

Q.1 Do you agree that the maximum depth permitted for smaller single-storey rear extensions on detached homes should be increased from 4 metres to 5 metres?

No

Please provide your reasons:

No. The expansion of the PDR needs to be better caveated to ensure that impacts on below-ground archaeological deposits can be identified in high sensitivity areas. This includes sites in close proximity to Scheduled Monuments, but also areas which are known to be of high archaeological potential, for example areas designated as Areas of Archaeological Importance, and other places such as historic town centres where there is a high degree of surviving evidence of past settlements, particularly where these areas are identified by local planning authority historic environment service as areas of high archaeological potential.

We believe that sites in such areas should be excluded from this PDR. At present, this Right means that no archaeological mitigation (such as a watching brief) can be conditioned as would be the norm for a full planning permission, despite the level of impact being the same. We have evidence that some applicants are deliberately reducing the size of proposed extensions in order to come under PDR thresholds and thereby avoid archaeological conditions. It is impossible to know what information is lost as a result of this.

Without expanded exclusions to the PDR, we cannot support the further relaxation of the right to increase the area of ground disturbance liable to be caused by development, as this will increase the risk of adverse archaeological impacts in sensitive areas. Appropriate exclusions should include sites

within a set distance of a Scheduled Monument, sites within AAls designated under the 1979 Ancient Monuments and Archaeological Areas Act, and sites within areas identified by local authorities as high sensitivity on the basis of below ground archaeological deposits, which should be identified through Article 4 Directives.

Q.2 Do you agree that the maximum depth permitted for smaller single-storey rear extensions on all other homes that are not detached should be increased from 3 metres to 4 metres?

No

Please provide your reasons:

No. As stated above, we cannot support the further relaxation of the existing right in any way which would increase the area of ground disturbance liable to be caused by development in archaeologically sensitive areas, unless appropriately expanded exclusions for areas of high sensitivity of below-ground archaeological remains are introduced.

Q.3 Do you agree that the maximum depth permitted for two-storey rear extensions should be increased from 3 metres to 4 metres?

No

Please provide your reasons:

No. As stated above, we cannot support the further relaxation of the existing right in any way which would increase the area of ground disturbance liable to be caused by development in archaeologically sensitive areas, unless appropriately expanded exclusions for areas of high sensitivity of below-ground archaeological remains are introduced.

Q.4 Do you agree that the existing limitation requiring that extensions must be at least 7 metres from the rear boundary of the home should be amended so that it only applies if the adjacent use is residential?

No

Please provide your reasons:

No. Other use classes require similar restrictions, so their amenity is not detrimentally impacted by unplanned alterations to neighbouring properties.

Q.5 Are there any circumstances where it would not be appropriate to allow extensions up to the rear boundary where the adjacent use is non-residential?

Not Answered

Please provide your reasons:

Q.6 Do you agree that the existing limitation that the permitted development right does not apply if, as a result of the works, the total area of ground covered by buildings within the curtilage of the house (other than the original house) would exceed 50% of the total area of the curtilage (excluding the ground area of the original house) should be removed?

Not Answered

Please provide your reasons:

The enlargement, improvement or other alteration to homes (Class A of Part 1)

Q.7 Should the permitted development right be amended so that where a two-storey rear extension is not visible from the street, the highest part of the alternation can be as high as the highest part of the existing roof (excluding any chimney)?

Not Answered

Please provide your reasons:

Q.8 Is the existing requirement for the materials used in any exterior work to be of a similar appearance to the existing exterior of the dwellinghouse fit for purpose?

Yes

Please provide your reasons:

Yes. This requirement is particularly important for buildings with historic character and in meeting the requirements of section 72 of the Planning (Listed Buildings and Conservation Areas) Act, 1990 to 'preserve and enhance' the character and appearance of conservation areas. In such instances carrying out repairs and alterations using like for like materials and sympathetic design is important to the character of the area as well as the building itself.

The enlargement, improvement or other alteration to homes (Class A of Part 1)

Q.9 Do you agree that permitted development rights should enable the construction of single-storey wrap around L-shaped extensions to homes?

No

Please provide your reasons:

No. As stated above, we cannot support the further relaxation of the existing right in any way which would increase the area of ground disturbance liable to be caused by development in archaeologically sensitive areas, unless appropriately expanded exclusions for areas of high sensitivity of below-ground archaeological remains are introduced.

Q.10 Are there any limitations that should apply to a permitted development right for wrap around L-shaped extensions to limit potential impacts?

Yes

Please provide your reasons:

As stated above, there should be exclusions for areas of high sensitivity of below-ground archaeological remains. Appropriate exclusions should include sites within a set distance of a Scheduled Monument, sites within AAIs designated under the 1979 Ancient Monuments and Archaeological Areas Act, and sites within areas identified by local authorities as high sensitivity on the basis of below ground archaeological deposits, which should be identified through Article 4 Directives.

Q.11 Do you have any views on the other existing limitations which apply to the permitted development right under Class A of Part 1 which could be amended to further support householders to undertake extensions and alterations?

Not Answered

Please provide your reasons:

Additions to the roof including roof extensions (Class B and C of Part 1)

Additions to the roof including roof extensions (Class B of Part 1)

Q.12 Do you agree that the existing limitation that any additional roof space created cannot exceed 40 cubic metres (in the case of a terrace house) and 50 cubic metres (in all other cases) should be removed?

No

Please provide your reasons:

Limitations to the volume of extensions under PDR isn't a cap on the volume of extensions that can be achieved. It is only a cap on the scale of extensions that can be carried out without consideration of proposals through the planning system. This situation is fully justified and appropriate. The impact on a building, its neighbours and surroundings from loft extensions that match the existing ridge height or exceed the cubic roof space content by more than 40m³ (terraces) / 50m³ (other building types) should be considered and a proportionate decision reached as part of a well-resourced planning system.

Q.13 Do you agree that the existing limitation requiring that any enlargement must be set back at least 20 centimetres from the original eaves is amended to only apply where visible from the street, so that enlargements that are not visible from the street can extend up to the original eaves?

No

Please provide your reasons:

The criteria of visibility from the street does not capture (potential) impact on setting from neighbouring properties and gardens, which is very important at a local level and can harm the character of the built environment.

From a design perspective, loft extensions, effectively dormer windows, sitting flush with existing eaves lines (illustration D) would appear sensible in terms of minimising joints in rooves and the creation of potential weak points for water ingress. However, whether this type of design is appropriate in any given context should be established by local design guides as SPG. It is also important that consideration is given to the existing design and capacity of rain water goods and the impact of any additional load on their capacity in this context. Especially in light of increased rain fall from climate change.

Q.14 Should the limitation that the highest part of the alteration cannot be higher than the highest part of the original roof be replaced by a limitation that allows the ridge height of the roof to increase by up to 30 centimetres?

No

Please provide your reasons:

No. Extensions altering existing ridge heights or exceeding existing ridge heights may harm the character of buildings, their setting and the amenity of neighbouring properties. The low percentage of cases where it might be acceptable to increase to main ridge height should be easily dealt with through the planning system. In the vast majority of instances loft extensions exceeding the ridge height would appear as bad design and contrary to other government principles around good design in the built environment.

In most places ridge heights of buildings relate positively and appropriately to their surroundings. If raising the existing ridge height is necessary to achieve a loft extension, then it should be achieved through the planning system to ensure works are appropriate to the building and its setting.

Q.15 Do you agree that the permitted development right, Class B of Part 1, should apply to flats?

No

Please provide your reasons:

No. Impacts on the external envelope will impact other owners / tenants within the building. Works to extend flats should go through the planning system to consider benefits and impacts on all stakeholders within a balanced planning decision.

Other alterations to the roof including roof windows (Class C of Part 1)

Q.16 Should the permitted development right be amended so that where an alteration takes place on a roof slope that does not front a highway, it should be able to extend more than 0.15 metres beyond the plane of the roof and if so, what would be a suitable size limit?

No

Please provide your reasons. If you have answered yes, please provide your alternative suggestion and any supporting evidence.:

Q.17 Should the limitation that the highest part of the alteration cannot be higher than the highest part of the original roof be amended so that alterations can be as high as the highest part of the original roof (excluding any chimney)?

No

Please provide your reasons.:

No. Continuity of ridge lines characterise some types of housing, for example terraces. Piecemeal alteration of ridges without the objective oversight of planners to ensure good design would detrimentally erode the character (often historic character) of areas.

Buildings etc incidental to the enjoyment of a dwellinghouse (Class E of Part 1)

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Q.18 Do you agree that bin and bike stores should be permitted in front gardens?

No

Please provide your reasons.:

This is potentially a good idea in some contexts. However, guidance around materials etc will be necessary to stop the store appearing as a bigger bin, so enlarging rather than solving the issue. Design codes could help to mitigate this type of impact on character and appearance, but these are not yet in place, as such this PDR is premature.

Q.19 Do you agree that bin and bike stores should be permitted in front gardens in article 2(3) land (which includes conservation areas, Areas of Outstanding Natural Beauty, the Broads, National Parks and World Heritage Sites)?

No

Please provide your reasons.:

In the context of article 2(3) land, impact on character of an area can come from development to the front or rear elevation, depending on their context and setting. Any development in article 2(3) land needs to be informed by the character of the specific area. PDR is therefore not an appropriate mechanism. Instead, bypassing the full planning process would require specific local planning guidance including design codes to ensure character and special interest in protected landscapes is not harmed by blanket planning deregulation.

Q.20 Do you agree that bin and bike stores in front gardens can be no more than 2 metres in width, 1 metre in depth and up to 1.5 metres in height?

No

Please provide your reasons.:

Appropriate dimensions for external storage, to minimise negative impacts on neighbours and local character will vary in different places depending on the dimensions and inter-visibility between external curtilage and the public realm. Therefore, materials, design and dimensions need to be subject to locally specific planning guidance. Local authorities may find recommended formulations helpful in designing their own locally specific guidance.

Q.21 Are there any other planning matters that should be considered if bin and bike stores were permitted in front gardens?

Yes

Please provide your reasons.:

Yes, the typical dimensions of front gardens in an area and the inter-visibility between external curtilage and the public realm. Is the area characterised by walls / hedges / railings etc.

Buildings etc incidental to the enjoyment of a dwellinghouse (Class E of Part 1)

Q.22 Should the existing limitation that in Areas of Outstanding Natural Beauty, the Broads, National Parks and World Heritage Sites development situated more than 20 metres from any wall of the dwellinghouse is not permitted if the total area of ground covered by development would exceed 10 square metres be removed?

No

Please provide your reasons.:

No. Article 2(3) designation exists to protect the character and special interest of these places. Deregulated planning undermines this level of protection and therefore jeopardises the qualities of these places that are cherished by current generations and cared for in the interest of future generations. Development in article 2 (3) land requires due consideration within the planning system.

Q.23 Should the permitted development right be amended so that it does not apply where the dwellinghouse or land within its curtilage is designated as a scheduled monument?

Yes

Please provide your reasons.:

Any development that impacts a scheduled monument through physical works or development within its setting should be subject to full planning consideration, even if in many cases (depending upon the nature of the Scheduled Monument) the application may be permitted. While such proposals would still likely require Scheduled Monument Consent (SMC), the existing streamlining of SMC with planning permission means that these processes need to take place in parallel in order to ensure proper consideration by both LPAs and Historic England in an efficient manner.

PDRs that involve ground works are entirely inappropriate in the context of nationally significant archaeology. This question raises concerning issues about safeguarding undesignated archaeology of equivalent significance to a scheduled monument. The NPPF paragraph 195 recognises that heritage assets are an irreplaceable resource and the Levelling Up. The existing approach to PDR generally (not just this specific right) undermines the precautionary approach to preserving or enhancing heritage assets by taking away the protection provided by the full assessment of planning applications. Deregulation of the planning system through the creeping extension of PDRs poses a cumulative threat to currently unknown significant archaeology as well as undermining the government's recent decision to legislate a duty on Ministers to take account of designated heritage assets, and the logic of putting Historic Environment Records (HERs) on a statutory footing within the Levelling Up and Regeneration Act.

Impact assessment

Q.24 Do you think that any of the proposed changes in relation to the Class A, B C and E of Part 1 permitted development rights could impact on: a) businesses b) local planning authorities c) communities?

Not Answered

Please provide 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 and which right or rights your comments relate to.:

Changes to the permitted development rights for building upwards (Class AA of Part 1 and Class A, AA, AB, AC and AD of Part 20)

Do you want to complete this section?

Yes

The upward extension of buildings (Class AA of Part 1 and Class A, AA, AB, AC and AD of Part 20)

Q.25 Do you agree that the limitation restricting upwards extensions on buildings built before 1 July 1948 should be removed entirely or amended to an alternative date (e.g. 1930)?

No

Please provide your reasons. If you have chosen an alternative date, please specify.:

No. Upwards extensions need to be informed by certainty that a building's foundations can tolerate the additional weight. Historic buildings need proper structural assessment before knowing if they are suitable for upwards extensions, (e.g. as they may have shallow foundations or weaker walls) and could be structurally compromised by the load of additional levels. Where upward extension is viable on pre-1948 structures the rigour of the planning process is necessary to ensure there will not be unforeseen negative consequences.

The July 1948 date, as when the Town and Country Planning Act 1947 came into effect, is a useful benchmark that aligns with other planning permission considerations in legislation. However, it is notable that buildings regulations were only introduced in 1965 and that buildings pre-dating 1965 may exhibit a wider range of construction techniques.

Q.26 Do you think that the prior approvals for the building upwards permitted development rights could be streamlined or simplified?

Yes

Please provide your reasons. If you have responded yes, please provide your suggestion and justification, and specify which right(s) you are referring to.:

There is potential for streamlining the upwards PDR if structural reports formed part of the prior approval's documentation requirements.

Construction of new dwellinghouses on a freestanding block of flats (Class A of Part 20)

Q.27 Do you have any views on the operation of the permitted development right that allows for the construction of new dwellinghouses on a freestanding block of flats (Class A of Part 20)?

Not Answered

Please provide your reasons.:

Q.28 Do you agree that the existing limitations associated with the permitted development right for building upwards on a freestanding block of flats (Class A of Part 20) incorporates sufficient mitigation to limit impacts on leaseholders?

Not Answered

Please provide your reasons.:

Impact assessment

Q.29 Do you think that any of the proposed changes in relation to the Class AA of Part 1 and Class A, AA, AB, AC and AD of Part 20 permitted development rights could impact on: a) businesses b) local planning authorities c) communities?

Not Answered

Please provide 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 and which right or rights your comments relate to.:

Changes to the permitted development rights for demolition and rebuild (Class ZA of Part 20)

Do you want to complete this section?

Yes

Changes to the permitted development rights for demolition and rebuild (Class ZA of Part 20)

Q.30 Do you agree that the limitation restricting the permitted development right to buildings built on or before 31 December 1989 should be removed?

Not Answered

Please provide your reasons.:

Q.31 If the permitted development right is amended to allow newer buildings to be demolished, are there any other matters that should be considered?

Yes

Please provide your reasons.:

Yes, the historic environment sector recognises the importance of the argument that existing buildings represent a resource of embodied carbon, and that this resource should be treated in such a way that minimises the loss of that embodied carbon, and the increased carbon cost of re-building. While we usually deploy this argument in parallel to arguments that favour the retention of buildings of heritage interest (which tend to be older buildings), the same principle applies to more modern buildings.

We therefore believe that the embodied carbon in all standing buildings should be a relevant consideration. Proposals for demolition should be subject to a viability assessment about the potential to adapt the standing building. Developing a pro-forma for this type of viability assessment would help applicants and planning teams. Net zero imperatives make it crucial to consider embodied carbon in standing structures as part of future development.

Q.32 Do you agree that the permitted development right should be amended to introduce a limit on the maximum age of the original building that can be demolished?

Yes – it should not apply to buildings built before an alternative date

Please provide your reasons. If you have chosen an alternative date, please specify.:

We strongly support a restriction on the implementation of this PDR for demolition. However, we do not support the proposed 1930s date. This would still result in the loss of significant historic buildings including many theatres and cinemas along with other Art Deco period structures. Using 1948 as a cut off date would align with a lot of other planning legislation, as this is when the Town and Country Planning Act (1947) came into force.

We urge the government to expand this proposed restriction beyond Class ZA of the order to encompass the broader Class B, as there are a lot of historic buildings, including a lot of industrial heritage which would remain vulnerable to unnecessary / unjustified demolition. As it stands, this amendment would also not include buildings within the specific functions which have 'nil' use due to very long-term vacancy. Exemption from this PD for locally listed buildings and non-designated heritage assets would also be welcome.

Q.33 Do you agree that the Class ZA rebuild footprint for buildings that were originally in use as offices, research and development and industrial processes should be allowed to benefit from the Class A, Part 7 permitted development right at the time of redevelopment only?

Not Answered

Please provide your reasons.:

Q.34 Do you think that prior approvals for the demolition and rebuild permitted development right could be streamlined or simplified?

No

Please provide your reasons and examples where possible.:

We view this PDR as extremely problematic in terms of its impact on the historic environment and a pre-existing 'sense of place' as well as the practice of demolition and rebuild being counter to climate change and net zero carbon imperatives.

Whilst there may be circumstances where this PDR is acceptable, for example where a building has been condemned, we advise that its use could be streamlined by a viability assessment as part of a prior approval strategy for use of this PDR. A viability assessment should establish a site's contribution to a local 'sense of place', local listed (or non-designated heritage asset) status and potential for adaptive reuse. As a result, cases of vexatious demolition could be eliminated and opportunities to adapt and reuse standing structures could be established, which would greatly reduce the carbon impact of the development.

Impact assessment

Q.35 Do you think that any of the proposed changes in relation to the Class ZA of Part 20 permitted development right could impact on: a) businesses b) local planning authorities c) communities?

Not Answered

Please provide 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.:

Changes to the permitted development rights for the installation of electrical outlets and upstands for recharging electric vehicles (Class D and E of Part 2)

Do you want to complete this section?

No

Changes to the permitted development right for air source heat pumps within the curtilage of domestic buildings (Class G of Part 14)

Do you want to complete this section?

No

Public Sector Equality Duty

Q.53 Do you think that the changes proposed in this consultation could give rise to any impacts on people who share a protected characteristic (Age; Disability; Gender Reassignment; Marriage or Civil Partnership; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation)?

No

Please provide your reasons.: