Consultation Response

Consultation on proposed changes to the Town and Country Planning (General Permitted Development) (England) Order 2015 in England

Date: 22 September 2023

The CLA is the membership organisation for owners and managers of land, property and businesses in rural England and Wales. Our 27,000 members own or manage around half the rural land in England and Wales and operate more than 250 different types of businesses. We help safeguard the interests of owners of land, and all those with an economic, social, and environmental interest in rural land.

Design Codes:

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?

1. No. Design codes are appropriate for 'new' forms of development but are unsuitable for permitted development rights related to the change of use of existing buildings for residential use. Classes Q and R of Part 3 are unique in their nature, as they allow for the conversion of existing agricultural buildings which have a form of their own. A design code could prevent what is permissible through the conditions and limitations of Class Q of Part 3. The consideration of design codes could result in an increase in refusals for this type of development that would otherwise be acceptable in design terms.

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?

2. The proposed changes could have varying impacts on businesses, local planning authorities and communities:

   a) Businesses that are submitting prior approval applications for permitted development would have a confidence that by following the design codes, they will be submitting a proposal that conforms to the requirement for the area and will not require re-designing in order to be compliant. However, the design code could impose requirements that result in projects becoming unviable and/or unachievable and as such, could put projects on hold or at worst cause them to be abandoned.

   b) For local planning authorities, applications could be processed more quickly if they have been designed with the design code in mind. However, there is a risk that it will take up more of Planning Officers' time to review proposals against design codes.

c) Communities could benefit from improvements to development proposals and designs that are more suitable to their local area and sympathetic to the existing character and setting.

Supporting housing delivery through change of use permitted development rights:

Commercial Business and Service uses to dwellinghouses (Class MA of Part 3)

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

c) No change

3. Allowing the increase in the floorspace can conflict with the need to revive our high streets to ensure towns and villages, particularly those in a rural setting, remain sustainable. The reduction or loss in services and facilities such as shops, gyms and cafes could have a consequential impact that results in settlements no longer being considered sustainable locations that could support new build housing. In small rural villages where there is only the village shop, if this is lost to housing through permitted development then the village is left without a vital service.

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?

4. Yes, this will enable the immediate change of use of buildings that are no longer required or viable. Whilst Class MA of Part 3 is a permitted development right that we support and contributes to addressing housing need, it is important that it does not come at the cost of losing vital services and facilities that will hinder future development on sustainability grounds.

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

5. Yes, it would be sensible to enable the change of use of buildings where they are no longer required or viable. This is particularly important in article 2(3) land such as Protected Landscapes and AONBs where housing development is restricted.

Q.6 Do you think that 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 suitability of the conservation is working well in practice?

6. No. As the consultation document says, the conservation area prior approval is confined to the Class MA permitted development right. Other permitted development rights appear to

work satisfactorily in conservation areas without it, and in any case no external physical works are permitted without an application for planning permission. We conclude that this conservation area prior approval provision is an unnecessary complication which should be removed.

7. Moreover, our experience suggests that there are good heritage-focused reasons for removing this conservation area prior approval, which has the unintended consequence of harming heritage in conservation areas because:

    a) despite the inclusion of the word 'sustainability', the word 'character' encourages local planning authorities to see conservation areas as areas to be 'defended' against change, building-by-building, without adequately considering the ability of new uses (especially residential uses, because they tend to be sustained in the long term) to rehabilitate individual buildings, and increase the prosperity and sustainability of the conservation areas as a whole; and

    b) it stalls applications which would have given sustainable new uses to heritage buildings, and also, largely invisibly, discourages owners from developing such proposals to the point at which they become applications. This leaves heritage buildings under- or un-occupied and actually or potentially in decay.

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?

8. Yes, it would be sensible to enable the change of use of buildings where they are no longer required or viable.

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?

9. It should be ensured that minimum space standards for dwellinghouses are adhered to.

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

10. The proposed changes could have the following impacts:

    a) For businesses, it will enable the re-use of assets that are redundant. The increase in the proposed floorspace and use within Article 2(3) land will enable larger redundant premises to change to residential use. It would be beneficial for businesses that have large amounts of empty floorspace to put these into a new use whilst contributing to housing need.

    b) The proposed changes to the Class MA permitted development right will contribute to reducing the time of processing full planning applications for this kind of development which will also contribute to a reduction in cost and resources.

c) Communities shall see the benefit of these amended permitted development rights through the enabling of new housing stock and particularly within protected landscapes where new housing has otherwise been restricted.

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?

11. Yes, provided they are not restricted by Article 4 Directions.

Agricultural buildings to dwellinghouses (Class Q of Part 3)

Q.25 Do you agree that the smaller and larger home size limits within the agricultural buildings to dwellinghouses right (Class Q of Part 3) should be replaced with a single maximum floorspace limit of either:

a) 100 square metres per dwellinghouse
b) 150 square metres per dwellinghouse
c) No change
d) Don't know

12. Yes, to a) or b).

13. As outlined within the consultation document, the existing limit on smaller and larger homes and the varying floorspace limit is complicated and, in some cases, this had led to the refusal of applications whereby the floorspace limits have been miscalculated.

14. Also, under the current floorspace limit, the development of one to three homes up to 465 square metres has resulted in large conversions that are unaffordable, and unsuitable for local needs.

15. The proposed revision to the home size limits to up to 100 or 150 square metres will restrict Class Q applications to dwellings that are smaller and more likely to be considered as affordable.

Q.26 Do you agree that an overall limit on the amount of floorspace that can change use, set at 1,000 square metres, should be introduced for the agricultural buildings to dwellinghouses right (Class Q of Part 3)?

16. Yes. This amendment would bring Class Q in line with the changes made to the GPDO 2015 Class A of Part 6 Agricultural permitted development rights in 2018 which allowed new farm buildings to be developed up to 1000 square metres in size (albeit, suggested to increase to 1,500 square metres within this consultation (Question 51). The increase in the overall limit of floor space for change of use would provide the opportunity to deliver more aesthetically pleasing designs given the importance of the landscapes in which many of these developments will reside.

Q.27 Do you agree that the 5 home limit within the agricultural buildings to dwellinghouses right (Class Q of Part 3) should be increased to allow up to a total of 10 homes to be delivered within an agricultural unit?

17. Yes. As with the proposed increase of the maximum floorspace limit to 1,000 square metres, this will contribute to more aesthetically pleasing designs in the sense that more of an agricultural site/cluster of agricultural buildings can be utilised. This would prevent the development of 1-5 homes on part of a site adjacent to redundant agricultural buildings that do not fall within the right and are unsightly or need demolishing.

18. The increase in the limit from 5 homes to 10 homes will also further contribute to addressing the housing needs of rural areas.

Q.28 Do you agree that the permitted development right for the change of use from agricultural buildings to residential use (Class Q of Part 3) should be amended to allow for an extension to be erected as part of the change of use on previously developed land?

19. Yes. The proposal that the extension can be 4m deep, single storey and extend to the entire rear elevation is acceptable and in line with householder permitted development rights.

20. However, the wording of this proposal may require consideration. The definition of previously developed land as contained at Annex 2 (Glossary) of the NPPF 2021 specifically excludes land that is or was last occupied by agricultural buildings. It is unlikely, but there could be confusion at local level of what constitutes previously developed land and further specification, and clarity could be necessary if this proposal is to take effect to result in reasons for refusal that could easily be avoided. For example, the wording could be amended to ‘land previously used for the purposes of agriculture’ rather than ‘previously developed land’.

Q.29 Do you agree that a prior approval be introduced, allowing for the consideration of the impacts of an extension on the amenity of neighbouring premises, including overlooking, privacy and light?

21. No. If a prior approval were to be introduced allowing for the consideration of the impacts of an extension on the amenity of neighbouring premises, it would be result in Class Q of Part 3 being the only permitted development rights to be subject to such a prior approval. Often, development under Class Q of Part 3 will result in a reduction in disturbances to amenity for neighbouring premises as it will result in buildings no longer forming part of an agricultural holding.

22. Class Q of Part 3 already contains prior approvals b) *noise impacts of the development* and f) *the design and external appearance of the building* and these are considered as satisfactory in considering the impacts of such development on neighbouring premises.

Q.30 Do you agree that buildings should have an existing floorspace of at least 37 square metres to benefit from the right?

23. Yes. This would bring the permitted development right in line with the minimum gross internal floor area and storage for a one bedroomed 1 storey dwelling as per the Technical housing standards – nationally described space standard.

Q.31 Do you think that permitted development right for the change of use from agricultural buildings to residential use (Part 3 Class Q) should be amended to apply in other article 2(3) land?

24. Yes. A planning survey undertaken by the CLA earlier this year identified that 58.4% of our members that live in Protected Landscapes have buildings that they wish to convert but under current planning rules and restrictions, they cannot. Allowing the use of Class Q within these areas will enable much needed and demanded for development.

25. Stifling change in AONBs and National Parks will contribute to them ceasing to function as economic and social entities, resulting in the associated environmental contributions stagnating with them. The continuation of the one-dimensional approach in protected landscapes prevents diversification that could feed into the financial resource required to conserve and enhance these areas and ensure overall sustainability. The introduction of further permitted development rights in the form of Part 3 Class Q would enable much needed redevelopment of existing and redundant agricultural buildings that no longer serve their existing purpose.

26. The CLA has concerns that the introduction of Part 3 Class Q permitted development rights in Article 2(3) land such as National Parks and AONBs would encourage the implementation of Article 4 Directions (A4Ds) that would prevent the use of permitted development rights and stifle the much needed development of new homes for rural workers and local people. Within the Government's long-term plan for housing, announced on 24th July 2023, the Government committed to continuing to ensure that local removal of permitted development rights through Article 4 Directions will only be agreed where there is evidence of wholly unacceptable impacts.

27. Concerns have been expressed, including within government, that the introduction of Class Q permitted development rights in National Parks and AONBs could result in some buildings being converted into dwellings for use as holiday lets. This could be prevented through appropriate criteria within the legislation and the CLA is keen to work with DLUHC to formulate this. This risk can be mitigated and should not stop the introduction of permitted development rights in designated landscapes.

28. We are aware that there is concern amongst National Parks and AONBs that thousands of new development proposals for new homes could come forward as part of this proposal. We understand the concerns, but think they over-state the risks:

    - The Class Q permitted development right does not permit the development of every agricultural building, particularly those that are not capable of conversion or

are less than 10 years old. Therefore, not every agricultural building within these areas will be eligible for development under the amended rights.

- There is a strong need for affordable housing within National Parks to ensure communities are able to grow and remain sustainable. Current planning restrictions are hindering this growth and do not enable for development of this kind. Class Q would not only deliver the much-needed housing but would also re-use existing buildings that are no longer fit for their intended purpose.

- Figures on PDR approvals show that, of 21,684 prior approval applications submitted for the change of use of agricultural buildings to residential dwellings between April 2014 and June 2023, 9,400 have been approved (this does not include those won at appeal). Taking these figures and factoring in the number of eligible barns across Protected Landscapes indicates that the number of dwellings that could come forward through the expansion of the PDR will not be that vast but those that are approved will contribute (albeit in a small way) to local housing need.

- Development under Class Q is subject to the Prior Approval process which ensures that development meets the prior approval tests. Planning permission is not automatically granted under Class Q and is subject to a 56-day process which includes consultation with statutory consultees who are able to support, object or request further information. The Local Authority is at liberty to attach any reasonable planning conditions to any planning decision and as such, there will still be an element of planning control.

- Should the proposals contained at Questions 25 - 27 of this consultation take effect, they will ensure that any new dwelling is no larger than 150 or 100 sqm, ensuring that Class Q barn conversions in AONBs and National Parks will be of an appropriate size and more likely to be affordable.

- In addition, development under Class Q is limited to the external dimensions of the building and corresponding curtilage only. Therefore, the expansion of these rights will not create sprawl. Whilst the consultation proposes the allowance of rear extensions on Class Q conversions, this would not be permitted in Article 2(3) land (Paragraph 75). The suggested increase of 10 dwellings from the existing maximum of 5 will only happen where there is an existing floorspace available to do so. For example, if a building is 500sqm, it will only be capable of 3-5 homes, not 10.

29. One of the Prior Approval tests for Class Q is ‘transport and highways impact of development’. The consultation expands on this at Question 36 and proposes that existing buildings must already have a suitable access to a public highway to benefit from the right. Should this proposal be taken into effect, it will also further reduce the number of eligible barns and limit the Class Q PDR to those with an access, thus reducing the potential for entirely isolated homes.

Q.32 Do you agree that the right be amended to apply to other buildings on agricultural units that may not have been solely used for agricultural purposes?

30. Yes, although any other buildings that are included in the right should have the same restriction in terms of last date in use. This will enable further use of buildings that are no longer fit for purpose and could contribute to local and rural housing need, while avoiding the loss of more modern productive capacity.

Q.33 Are there any specific uses that you think should benefit from the right?

31. The following uses should also benefit from the right:

- Equestrian buildings
- Forestry buildings
- Farm office buildings
- Storage and distribution buildings (not secured under Class R)

Q.34 Are there any specific uses that you think should not benefit from the right?

32. No.

Q.35 Do you agree that the right be amended to apply to agricultural buildings that are no longer part of an agricultural unit?

33. Yes. If buildings are redundant to the agricultural operation, their re-use should be encouraged, especially when that re-use will contribute (albeit in a small way) to local housing need and diversification.

Q.36 Do you agree that any existing building must already have an existing suitable access to a public highway to benefit from the right?

34. Yes, but allowance should be made to enable access improvements to ensure suitability. It is important that a pragmatic approach is taken to prevent the unnecessary refusal of prior approval applications. Often, where public highway access to an existing building is available, it is in the form of a single-track roadway. What is considered an existing suitable access to a public highway by one local planning authority, is not necessarily considered suitable by another local planning authority. A definition is required within Planning Practice Guidance for clarity and to address this inconsistency.

35. The permitted development right needs to allow for the implementation of access improvement works that are reasonably necessary such as allowing adequate space for vehicles to pull off from the highway, requiring works to be undertaken to improve visibility splays and also the implementation of passing bays, where reasonably necessary.

36. It must also be noted that the restrictive curtilage permitted by Class Q means that in most cases, it is impractical to include the access to the highway within the redline plan.

37. The Class Q permitted development right as existing is assessed against prior approval matter a): transport and highways impacts of the development. In some cases, this involves assessing the suitability of the access to the development and the possible need for improved visibility which can be secured by way of condition. This should continue to be enabled.

Q.37 Do you have a view on whether any changes are required to the scope of the building operations permitted by the right?

38. The scope of the building operations permitted by the Part 3 Class Q right are, for the most part, acceptable for the barn conversions that applicants are seeking.

39. However, they do not allow for the inclusion of renewable energy sources such as solar panels or air source heat pumps due to the fact that these extend beyond the building's external dimensions (Condition Q.1 (g) of Part 3, Class Q). This has resulted in a number of applications of this kind being refused on these grounds. This dis-encourages the use of renewable energy sources to heat and supply power to these new homes. The scope of the building operations permitted by the right as existing should therefore be expanded to enable the inclusion of these works.

Q.38 Do you have a view on whether the current planning practice guidance in respect of the change of use of agricultural buildings to residential use should be amended?

40. The current planning practice guidance addresses some of the concerns and queries that applicants may have with regard to the change of use of agricultural buildings to residential uses.

41. However, it could usefully provide further guidance in relation to the transport and highways impacts and building operations which are common areas for concern and result in the most confusion and in some cases, subsequent refusals.

42. Further to question 36 of the consultation, a definition on what is deemed as *'existing suitable access to a public highway'* should be provided within planning practice guidance.

43. To avoid the use of Class Q permitted development rights for the development of holiday lets (short-term lets), an additional condition could be introduced to restrict the occupancy of the dwellings created by the right to local people (whether rented or purchased). The CLA is keen to work with DLUHC to formulate the wording of this condition, which should focus on the need to house key and local workers to an area, but also allows local people who may wish to downsize and remain living in an area.

Q.39 Do you agree that permitted development rights should support the change of use of buildings in other predominantly rural uses to residential?

44. Yes, providing this does not result in the loss of any vital services or facilities for the rural area and economy.

Q.40 Are there any safeguards or specific matters that should be considered if the right is extended to apply to buildings in other predominantly rural uses?

45. Yes, a test of eligibility should be applied to establish that the building has been in a predominantly rural use such as a forestry or equestrian use. This could be similar to the existing test for agricultural use but should not be used as a mechanism to stifle this kind of development.

Q.41 Do you think that any of the proposed changes in relation to the Class Q permitted development right could impact on: a) businesses b) local planning authorities c) communities?

46. Yes, in a positive way:

a) The proposed changes will enable diversification for many agricultural and rural businesses at a time when it is at the forefront for many minds, due to the loss of subsidy payments. It will also enable the re-use of redundant agricultural buildings and potentially other rural buildings that no longer serve a purpose. The re-use of these buildings will enable more people to either move to the area or enable local people to stay in the area, spending locally. We expect the majority of these re-developments will use local construction businesses, further supporting local economies.

b) The proposed changes to the Class Q permitted development right will contribute to reducing the time of processing full planning applications for this kind of development which will reduce cost and resource needs.

c) Communities will see the benefit of these amended permitted development rights through the enabling of new housing stock through barn conversions and particularly within protected landscapes where new housing has otherwise been restricted.

Q.42 Do you think that changes to Class Q will lead to the delivery of new homes that would not have been brought forward under a planning application?

47. Yes, for the following reasons:

a) Many of these building are located outside settlement envelopes and as such are currently deemed to be within the ‘open countryside’ whereby local planning policy restricts development.

b) The change will enable further and more appropriate re-use of agricultural buildings that may have otherwise been deemed as unsustainable development.

c) The existing restrictions on floorspaces for larger and smaller dwellings have stifled development of this kind in some locations.

48. Protected Landscapes desperately need more housing to address need in their communities, this is currently near on impossible due to restrictive local and national planning policy.

Supporting the agricultural sector through additional flexibilities:

Agricultural buildings to a flexible commercial use ("agricultural diversification") (Class R of Part 3)

Q.43 Do you agree that permitted development rights should support the change of use of other buildings in a predominantly rural land use to a flexible commercial use?

49. Yes, although any other buildings that are included in the right should have the same restriction in terms of last date in use. This will enable further use of buildings that are no longer fit for purpose and could contribute to the rural local economy, while avoiding the loss of more modern productive capacity.

Q.44 Do you agree that the right be amended to allow for buildings and land within its curtilage to be used for outdoor sports, recreation or fitness?

50. Yes. Following the Covid-19 pandemic, there has been as increase in demand for facilities such as dog walking fields as a result of increased dog ownership. Change of use to outdoor sports, recreation and fitness may require less financial input than other diversification options, they are low impact and can often require little in the way operational development. Enabling the permitted development right to allow for these uses would see a reduction in planning applications that are generally not contentious but can be costly and time consuming for both local planning authorities and applicants.

51. We support the suggestion at paragraph 105 of the consultation to not include motor sports.

Q.45 Do you agree that the right be amended to allow buildings to change use to general industrial, limited to only allow the processing of raw goods produced on the site and which are to be sold on the site, excluding livestock?

52. Yes, although the current proposal is too restrictive. Not all farms have a farm site in which they sell their produce; some process their raw goods on site and then provide to local farm shops, garden centres, and other local outlets, as well as further afield for specialist artisanal products. To reflect and support the rural economy better, the proposal should allow for the processing of raw goods produced on the site and destined to be sold within a given radius, or within a volume limitation. This is something the CLA would been keen to engage with DLUHC on further.

Q.46 Should the right allow for the change of uses to any other flexible commercial uses?

53. Yes, the Class R right could be further expanded to allow for other flexible commercial uses such as those included within the Sui Generis use class (hot food takeaways etc.).

54. The permitted development rights could go further to provide educational facilities such as those catering for adults and children with special educational needs. Class S of Part 3 allows the change use of agricultural buildings to state-funded schools, but this could go further to provide much needed facilities that would serve communities. Such developments may be unviable if it were subject to a full planning application (please see response to Question 83 of this consultation).

Q.47 Do you agree that the right be amended to allow for a mix of the permitted uses?

55. Yes, this would enable small start-up businesses in out of town locations which are suitable to their needs and are more cost effective in terms of rent. It could also create suitable spaces for the delivery of essential services in rural locations.

Q.48 Do you agree that the right be amended to increase the total amount of floorspace that can change use to 1,000 square metres?

56. Yes. This change would bring the permitted development right in line with the total amount of floorspace that is has been allowed for new agricultural buildings under Class A of Part 6 (proposed to increase at Question 51 of this consultation). This will enable more diversification, which will inject additional income into the rural economy.

Q.49 Is the trigger as to whether prior approval is required set at the right level (150 square metres)?

57. With the proposed total amount of floorspace proposed to increase to 1,000 square metres from 500 square metres, it would be sensible to also double the trigger to 300 square metres.

58. Further guidance needs to be prepared on this matter: there is an inconsistent approach among local planning authorities. Notification of change of use of less than 150 square metres is misunderstood and registered as a prior approval application, which in some cases results in requests for application fees and unnecessary delays.

Q.50 Do you think that any of the proposed changes in relation to Class R permitted development right could impact on a) businesses b) local planning authorities c) communities?

59. Yes, in a positive way:

a) The proposed changes will enable and open up diversification opportunities for many agricultural businesses at a time when it is at the forefront of many minds due to the loss of

subsidy payments. It will also enable the re-use of redundant agricultural buildings and potentially other rural buildings that no longer serve a purpose. Enabling their re-use to a new use that will not only support the agricultural business but also the local rural economy and may encourage new visitors to the area that will spend locally at neighbouring businesses.

b) The proposed changes to the Class R permitted development right will contribute to reducing the time of processing full planning applications for this kind of development which will reduce cost and resource needs.

c) Communities shall see the benefit of these amended permitted development rights through additional job opportunities and new commercial activity as well as increases in services and facilities that will reduce the need to travel to nearby towns and cities.

Agricultural Development

Agricultural development on units of 5 hectares of more (Class A of Part 6)

Q.51 Do you agree that the ground area limit of new buildings or extensions erected under the right be increased from 1,000 to 1,500 square metres?

60. Yes. The proposed increase of the ground area limit will enable farmers to increase their building sizes through permitted development rather than through the traditional planning route which is timely and expensive and can result in projects becoming unviable.

Q.52 Do you agree that we remove the flexibility for extensions and the erection of new buildings where there is a designated scheduled monument?

61. No. Class A of Part 6 is important in establishing that the planning system should not stand in the way of reasonable and necessary agricultural development. Where a proposal could cause significant physical harm to a scheduled monument, it would require Scheduled Monument Consent (SMC). The Secretary of State/Historic England can prevent that where appropriate by refusing the SMC or indicating that it would not be granted.

62. This proposed restriction is therefore unnecessary and undesirable. If the proposal is carried forward, it should only apply within the defined area of the scheduled monument, not to adjacent or surrounding land and this must be specified.

Agricultural development on units of less than 5 hectares (Class B of Part 6)

Q.53 Do you agree that the right be amended to allow extensions of up to 25% above the original building cubic content?

63. Yes. This is in line with the proposals at Question 51 of this consultation and will allow for the expansion of existing facilities and enable them to be developed in line with modern day agriculture.

Q.54 Do you agree that the right be amended to allow the ground area of any building extended to reach 1,250 square metres?

64. Yes.

Q.55 Do you agree that we remove the flexibility for extensions where there is a designated scheduled monument?

65. No. As per our answer to Question 52, Class B of Part 6 is also important in establishing that the planning system should not stand in the way of reasonable and necessary agricultural development. Where a proposal could cause significant physical harm to a scheduled monument, it would require Scheduled Monument Consent (SMC). The Secretary of State/Historic England can prevent that where appropriate by refusing the SMC or indicating that it would not be granted.

66. This proposed restriction is also therefore unnecessary and undesirable. If the proposal is carried forward, it should only apply within the defined area of the scheduled monument, not to adjacent or surrounding land and this must be specified.

Q.56 Do you think that any of the proposed changes in relation to Part 6 permitted development right could impact on a) businesses b) local planning authorities c) communities?

67. Yes, in a positive way:

a) The proposed changes in relation to Part 6 permitted development right would have a positive impact on agricultural businesses. It will enable them to further develop in line with modern day agricultural requirements that have resulted in the need for more space and larger agricultural buildings. Enabling this development via permitted development rights will reduce the amount of time and expense spent on navigating these applications through the planning system.

b) The proposed changes to the Part 6 permitted development rights will contribute to reducing the time of processing full planning applications for this kind of development which will also contribute to a reduction in cost and resource needs.

c) The proposed changes shall have a positive impact on rural communities, enabling agricultural development that may have otherwise not been pursued due to the expense of submitting a full planning application. In addition, enabling agricultural development may also create additional jobs on farms.

Call for evidence on nature-based solutions, farm efficiency projects, and diversification:

Nature-based solutions:

Q.67 What guidance, policy, or legislative changes could help to provide a more supportive framework for planning authorities to determine planning applications within?

68. A new permitted development right needs to be introduced specifically for nature-based solutions. This would simplify the existing Class A and B of Part 6 permitted development rights which can be confusing due to the fact they cover a number of elements of agricultural development. A new right would also enable the introduction of conditions and limitations that are suitable and specific to these types of proposals.

69. In terms of guidance, additional guidance should be provided by the Planning Advisory Service (PAS) on rural and agricultural matters for Planning Officers. This would reduce the misunderstanding of both agricultural practices and need when applications of these kinds are submitted at pre-application or full planning application level.

70. In many cases, farmers have to submit planning applications within short timeframes to ensure development is approved in time for a grant application to be approved or grant monies to be released. This means they attempt to make planning applications without expert or professional guidance, which often results in applications that are missing information or are misinterpreted. These factors result in applications that are refused and not resolved in time for the applicant to receive their necessary funding. Additional planning practice guidance for applicants on how to make suitable planning applications would address this issue.

Q.68 What new permitted development rights, or amendments to existing permitted development rights, would streamline and simplify the process? If referring to an existing permitted development right, please be as specific as possible.

71. Permitted development rights under Class A, Part 6 restricts the size of development and also prevents the removal of soil from the site. This impacts the viability of projects, particularly those for on-farm reservoirs. The permitted development rights could be amended, or a new right introduced to allow for an amount of soil to be removed from the site to allow further flexibility.

Q.69 Would a specific and focused permitted development right expedite or resolve a specific delivery challenge for nutrient mitigation schemes?

72. Yes. The conditions and limitations of a focused permitted development right could be tailored to the nutrient mitigation schemes rather than focusing on wider elements of agricultural development as Classes A and B of Part 6 currently do. The current rights create confusion for both applicants and local authority planning officers which in turn results in delays and refusals.

73. When nutrient mitigation schemes do not fall under classes A and B permitted development rights, full planning applications are required. These applications require a vast amount of third-party information, take longer than the prescribed statutory timeframes and carry a degree of uncertainty, all of which impacts viability. This results in schemes being abandoned and nutrient mitigation schemes not being carried out.

74. A more specific and focused permitted development right would address this issue and would streamline the process.

Q.70 Please provide specific case studies (including planning reference numbers where available) which can help us understand what issues farmers and land managers are facing in relation to nature-based solutions.

75. The below case study is a specific example from a CLA member and illustrates the impact of conflicting agendas across statutory bodies such as the Environment Agency and Natural England. These conflicting agendas result in objections at planning application stage which hold projects up. Where planning is granted, subsequent agreements on maintenance and funding can then impact the viability of a scheme.

> **Case study:** A landowner in Gloucestershire would like to alleviate flooding from downstream settlements by lowering the height of the riverbank to reconnect the river with the floodplain on his land and form wetlands. The landowner estimates that this could reduce flood peaks locally by 50 cm. The Environment Agency is a statutory consultee on the planning application, but they have not yet agreed to the scheme. Making headway has been a very laborious, multiyear undertaking. Improving the agility of government agencies in their role as statutory consultees would allow private landowners to deliver beneficial schemes on their land.

Q.71 Would these issues be resolved by amending planning practice guidance or permitted development rights, or any other solutions?

76. We feel that there are two approaches to resolving these issues: the introduction of new permitted development rights or the use of Permission in Principle. Permission in Principle is a two-stage process whereby the in-principle decision is provided at the first stage prior to the high expenditure required at the second technical details stage. Pushing up front costs to the second stage helps de-risk the process and could unlock new investment which will be particularly useful for on-farm reservoir projects.

Q.72 Are there any success stories that we can learn from on individual cases, or in certain local planning authorities?

N/A

Q.73 Would you propose different solutions for different sized agricultural units?

71. No.

Q.74 Do you foresee any unintended negative consequences that may result from more nature-based solutions coming forward (e.g., impacts to other species, flood risk, wildfire risk, risk to public safety, releasing contaminants from contaminated land or hydrology etc.)? How could these be avoided?

77. Rewetting lowland peat is an important way to reduce the significant carbon dioxide emissions from drained peat, which the CLA supports and believes will need to be expanded in future. However, it is a challenge to restore the water table on one landholding without affecting the water table on neighbouring land. It could lead to legal disputes, and extra costs and holdups in the planning system if there is a requirement for detailed hydrological modelling to be conducted. Planning authorities should proactively consider how to ensure that the assessment protocols within applications to rewet peat are proportionate so they neither disincentivise nor halt peat rewetting but also include safeguards to minimise disruption to neighbouring land.

78. Saltmarsh creation from former agricultural land can lead to high discharges of accumulated nutrients and chemicals from fertilisers, pesticides, and herbicides – particularly nitrates and phosphates[1].

79. Beavers can gnaw down riparian trees, including productive timber trees - e.g., willow trees grown to produce cricket bats.

80. Reductions in prescribed burnings on upland peat can increase wildfire risk due to an increased buildup of biomass at the surface, which in turn dries out the upper levels of the soil and worsens wildfire risk. This means that the climate benefit of no-burn policies remains equivocal[2]. The CLA has reservations if upland peat management policy shifts entirely towards a no-burning regime, although reducing burning in some areas will be important.

81. The consequences of nature-based solutions are inherently hard to predict, so some projects may not deliver the outcomes expected and others may exceed expectations. There needs to be comprehensive risk management strategies in place.

Farm efficiency projects:

Q.75 What guidance, policy, or legislative changes could help to provide a more supportive framework for planning authorities to determine planning applications within?

82. Legislative changes could help by introducing much needed permitted development rights for development proposed within farming efficiency projects such as rainwater harvesting. This would relieve the number of planning applications submitted and contribute to addressing issues with backlogs. It would also reduce the number of planning applications submitted for minor works such as the installation of rainwater harvesting equipment that often comprises

[1] Kristensen, E., Quintana, C.O., Valdemarsen, T. and Flindt, M.R., 2021. Nitrogen and phosphorus export after flooding of agricultural land by coastal managed realignment. *Estuaries and Coasts*, *44*, pp.657-671.

[2] Heinemeyer, Andreas orcid.org/0000-0003-3151-2466 (2023) Protecting our peatlands. A summary of ten years studying moorland management as part of Peatland-ES-UK: heather burning compared to mowing or uncut approaches. University of York.

plastic water butts and is temporary in nature but in some cases currently requires full planning permission.

83. Additional guidance could be provided by the Planning Advisory Service (PAS) on rural and agricultural matters for Planning Officers. This would reduce the increased misunderstanding of both agricultural practices and need when applications of these kinds are submitted at pre-application or full application level.

84. In many cases, there is also an urgency for farmers to submit applications to ensure development is approved in time for a grant application to be approved or grant monies to be released. This means they attempt to make full planning applications without expert or professional guidance which often results in applications that are missing information or are misinterpreted. These factors combined results in applications that are refused and not resolved in time for the applicant to receive their necessary funding. Additional planning practice guidance for applicants on how to make suitable planning applications could address this issue.

Q.76 What new permitted development rights, or amendments to existing permitted development rights, would streamline and simplify the process? If referring to an existing permitted development right, please be as specific as possible.

85. Existing permitted development rights under Classes A and B, Part 6 of the GPDO should be amended to allow for the following:

    - Installation of rainwater harvesting equipment including the placing of rainwater harvesting tanks.

    - Allowance of gravel/soil abstraction and removal from site (with limitations).

86. Permission in Principle for the construction of on-farm reservoirs should be enabled to allow applicants to front-load the cost/risk associated with a full planning application. This would give applicants the confidence to then proceed to the technical details application stage and pay for the necessary reports and surveys such as archaeology reports.

87. Gravel & sand abstraction is a common theme for the refusal of applications when applicants are proposing the sell the gravel that they abstract. These applications are not considering the wider benefits of allowing the abstracted materials to leave the site such as increasing the viability of schemes and creating a source of income for the applicant.

88. Expanding the existing permitted development rights for agricultural development would streamline and simplify the process. The process is currently complicated by a misunderstanding of both agricultural practices and the need for farmers to adapt as well as a lack of resource within local authority planning departments.

Q.77 Please provide specific case studies (including planning reference numbers where available) which can help us understand what issues farmers and land managers are facing in relation to slurry stores or lagoons and small-scale reservoirs.

Case Study:
To build a farm reservoir, farmers and land managers need to obtain planning permission and a water abstraction licence from the Environment Agency. Most landowners also need to receive a grant from the Water Transformation Fund, which will pay for 40% of project costs, as the current price that farmers receive from their produce is insufficient to cover the costs of installing a farm reservoir.

89. A delay in receiving any of these three elements typically causes costs to increase to the point at which the reservoir is no longer financially viable. The main reason for this is that contractors abandon delayed projects, meaning that farmers are forced to select more expensive contractors with availability or wait for a new quote from the original contractor, which will likely be higher due to inflation. Government funding remains pegged at the quote from the original contractor, so administrative delays in effect cause the percentage of the reservoir funded by the grant to diminish. The unknown length of time it takes to receive planning permission, abstraction licencing, and grant funding is further causing some contractors to simply veto grant-funded reservoir projects.

90. Barriers specifically related to planning permission are illustrated through the following two case studies.

Case study: A farmer in coastal Suffolk, who grows potatoes and onions, wanted to build a reservoir and diversify into field vegetables as he has no irrigation on his farm. He spoke to local planning officers at a pre-application stage but planning barriers deterred him from proceeding to a full application. Obtaining planning permission would have required an archaeological survey, which would have added costs amounting to 50-75% of total project costs. This was the “straw which broke the camel’s back”, as the total investment return period for the reservoir would then have exceeded 25 years. The farmer was unable to recoup any of the expenditure on archaeology through sale of the sand and gravel dug from the reservoir pit because planning officers voiced strong opposition to any mineral extraction from the site. It is unlikely that a full application would have persuaded them to allow the farmer to sell gravel, given that nearby gravel pits have been blocked from expanding by the planning system.

The timescale of the first round of the Water Transformation Fund was also too short for the farmer to establish a dialogue with local planners about where to site the reservoir. He would have been forced to select a location in the grant, and then hope that this selection met the planning authority’s approval.

Case study: Another farmer in coastal Suffolk, growing root and arable crops, who already has several farm reservoirs wanted to build an additional reservoir, but likewise had major issues with archaeological costs.

The proposed reservoir would be located below sea-level. As a condition of planning consent, the Environment Agency requested a substantial area of land to be dug up as offset land to replace the lost floodplain and marshes. Given that the reservoir has a

small seafront footprint, and it will abstract winter floodwaters – therefore delivering flood alleviation services – the farmer felt that this was a puzzling and unduly onerous request.

91. Other reservoirs located on floodplains have been stymied due to the requirement, as a condition of planning permission, for land set aside elsewhere on the floodplain to compensate for the land which they occupy. Alternatively, they have been refused permission due to rules limiting structures on floodplains.

92. There are also barriers to obtaining an Environment Agency abstraction licence. These are expensive application fees for abstraction licence applications with no guarantee of success, and no refund for proposals which are rejected.

    Case study: A landowner with land in Cambridgeshire and Suffolk halted their reservoir project after facing with a fee of £18,000 to continue with the processing of their abstraction licence. This followed months of delays because the Environment Agency had misclassified the watercourse from which the estate was planning to abstract as a chalk stream. In reality, it was an ephemeral ditch which only drained stormwaters. The local council was willing to pay a significant sum towards the reservoir, as it would have reduced downstream flood risk, whilst also protecting the chalk stream from stormwater flows and providing water for irrigation. The cost of applying for a further licence – after having rejected the Environment Agency's offers of 10%, 45% and then 70% of the reservoir volume, at each of which it would have been unviable financially – ultimately led the landowner to end this mutually beneficial project.

93. Finally, the 40% grant rate is a serious blocker on reservoir creation. Because of the size of total costs, most projects are either barely viable or unviable at a 40% grant rate. The CLA believes that the grant rate should be increased to 60% of total project cost.

    Case study: In Cheshire, various planning applications for new slurry stores (funded through the Slurry Infrastructure Grant) and new livestock sheds (funded through the Animal Health and Welfare Infrastructure Grant) have been refused or held up because Natural England's computer programme assumed that these facilities meant new livestock were being added to the catchment, and therefore calculated that they would cause ammonia methane emissions to increase. As a statutory consultee, Natural England vetoed their construction on the basis of the computer programme output. In reality, the buildings were designed to improve welfare and reduce pollution from existing livestock rather than introduce capacity for extra livestock.

Q.78 Would these issues be resolved by amending planning practice guidance or permitted development rights, or any other solutions?

94. We feel that there are two approaches to resolving these issues: the introduction of new permitted development rights that are separate from those that are existing, to simplify the process or the use of Permission in Principle.

95. Permitted development rights could be expanded further than those suggestions within this consultation. The criteria and conditions set out at Class A and B of Part 6 could allow for

more types of farm efficiency projects to come forward through the permitted development route rather than new and amended buildings.

96. Permission in Principle is a two-stage process whereby the in-principle decision is provided at the first stage prior to the high expenditure required at the second technical details stage. Pushing up front costs to the second stage helps de-risk the process and could unlock new investment which will be particularly useful for various farm-efficiency projects.

Q.79 Are there any success stories that we can learn from on individual cases, or in certain local planning authorities?

97. None that the CLA is aware of. Our members are struggling on many different fronts to establish reservoirs. There are overriding themes as outlined within our response to Question 77, the combination of barriers is usually specific.

Q.80 Would you propose different solutions for different sized agricultural units?

98. No. Farm businesses of all sizes wish to install reservoirs to improve their resilience in the face of climate change. The areal extent of agricultural units does not necessarily correspond to the level of capital which the business has to invest. Small horticultural businesses and tree nurseries may have relatively high financial turnover, high water usage, and would benefit from installing a reservoir, but cover a small area.

Q.81 Do you foresee any unintended negative consequences that may result from more farm efficiency projects coming forward (e.g., impacts on nutrient pollution, protected sites or hydrology)? How can these be mitigated?

99. Farm efficiency projects are capital intensive, which leads to greater supply chain concentration. Often, only the biggest producers can afford to remain in business, with many smaller producers becoming insolvent and being forced to exit from the industry. Producers forced to exit the industry will need to utilise farm assets differently to generate new income through diversification.

Diversification of farm incomes:

Q.82 What guidance, policy, or legislative changes could help to provide a more supportive framework for planning authorities to determine planning applications within?

100. Planning policy and accompanying guidance needs to acknowledge the changing agricultural sector. Due to Brexit, the agricultural sector is experiencing a huge transition of change, perhaps the biggest of a generation. Diversification is vital to ensure that rural businesses can run sustainably beyond agricultural transition and the end of the basic payments scheme. It is not practical to expect farms and rural estates to rely on income from agricultural practices alone and planning policies and guidance need to acknowledge and place an emphasis on enabling diversification. Improved guidance will enable Planning Officers to appreciate the need for diversifying and enable a proactive and understanding approach to these kinds of applications, of which submissions will only increase.

101. Legislative changes such as the amendment and introduction of new permitted development rights to enable diversification will further provide a more supportive framework in that it will enable the development of a small scale with little impact to proceed without the need for a full planning application that is not only time consuming and costly for applicants but also requires local authority resource. At a time when resources of planning departments are stretched, the increased allowance of farm diversification through permitted development shall improve not only the viability of schemes but also reduce pressure on planning system backlogs.

Q.83 What new permitted development rights, or amendments to existing permitted development rights, would streamline and simplify the process? If referring to an existing permitted development right, please be as specific as possible.

102. Change of use permitted under Classes Q and R of Part 3 must be completed within a period of 3 years starting with the prior approval date. This is restrictive and difficult to abide by in practice due to the need to discharge planning conditions (which can be delayed) and need to find and fund appropriate construction. In the case of Class R, a full planning application is required for any operational development following the grant of change of use. This causes further pressure on applicants to secure that permission and then commence and complete works within the 3-year period. The CLA proposes that the legislation is amended to 'commence within a period of 3 years starting with the prior approval date'. This would bring the legislation in line with the conditions set out on other planning applications and would improve viability for the conversion of agricultural buildings. Alternatively, the current condition could be amended to 'must be complete within a period of 5 years starting with the prior approval date'.

103. Class S, Part 3 of the GPDO enables the change of use of agricultural buildings to state funded school (and previously, registered nursery). The permitted development right does not allow for other educational facilities such as care farming which can provide health and social care and specialist educations services in a farm setting with farming-related activities. The funding of these facilities can vary, and it is often not viable for those running these sites (which are often charities) to have to go through the full application process to expand their facilities and offerings. The planning application system is costly and can result in the loss of such facilities. Therefore, the CLA propose an expansion of Class S to enable additional much needed facilities to come forward in a way that is more cost effective, ensures viability and is relatively quick to implement.

104. We have examples from members to demonstrate the demand and ambition to diversify into educational facilities that are not state-funded. One member has a goat shed that they wish to use as a classroom whilst another has an agricultural barn that they wish to convert to a special educational needs facility.

105. Class S, Part 3 should be amended to the following: 'agricultural and forestry buildings to educational facilities'.

106. Class B of Part 4 allows for the temporary use of land for 28 days per calendar year, this should be amended to allow for the temporary use of land **and** buildings. We have identified

through our members that there is a high demand for the use of buildings temporarily for up to 28 days, particularly for weddings. Class BC has recently been introduced into Part 4 of the GPDO to allow for temporary campsites for recreational purposes. This right could go further and permit permanent ancillary infrastructure such as plumbing and also allow for shepherds huts and other types of accommodation sought after at these sites such as various 'glamping' options.

107. In addition, the allowance of the following diversification projects via permitted development rights would be welcome and would serve enhancing the rural economy:

- Change of use of agricultural land to dog walking facilities up to 1ha.

- Expansion of Class E of Part 4 to allow for the temporary use of buildings or land for film-making purposes in Article 2(3) land, specifically AONBs and National Parks,

- Allowance of car parking on agricultural land for up to 28 days in any calendar year (Class B or Part 4).

Q.84 Are there any other diversification projects which have not been covered in this call for evidence or the wider consultation, that you wish to provide evidence for? If so, please provide specific case studies (including planning reference numbers where available) which can help us understand what issues farmers and land managers are facing.

108. We do not have specific case studies on other diversification projects, but we are aware from our members of the demand for the proposed new permitted development rights and amended rights contained within our answer to Question 83 above.

Q.85 Would these issues be resolved by amending existing permitted development rights, or any other solutions?

109. Some of these issues would be resolved by amending existing permitted development rights but there is another solution through the use of Permission in Principle. The CLA recommends the amendment of the existing permission in principle legislation to enable it to be used for rural economic development across all rural areas. If rural businesses could easily obtain planning permissions for beneficial economic development, including critically needed affordable housing, diversification opportunities could be realised more easily with less risk. This is particularly relevant in the context of the agricultural transition and the need for businesses to diversify as the planning system is seen as one of the most significant barriers to economic growth in rural areas.

110. We have seen a noticeable trend for increasing demands for more reports and surveys before a planning application will be validated by the planning authority. Sometimes these reports and surveys are not even relevant to the application proposals and have resulted in wasted time and financial input.

111. The high levels of up-front costs to support a planning application and the significant risk of an unsuccessful outcome have a detrimental impact on the delivery of potentially beneficial economic development in rural areas. For applications that are rejected, those costs are lost. Not only is it economically inefficient, the fear of losing large sums of money deters people from applying.

112. Amending the permission in principle regulations to include rural economic development would help to de-risk the process by encouraging further farm diversification and unlocking new investment in rural areas.

Q.86 Are there any success stories that we can learn from on individual cases, or in certain local planning authorities?

N/A

Q.87 Would you propose different solutions for different sized agricultural units?

113. No. Different sized agricultural units should be afforded the same opportunities when it comes to farm diversification projects.

Q.88 Do you foresee any unintended negative consequences that may result from more farm diversification projects coming forward? How can these be mitigated?

114. No.

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