Consultation Response

Consultation on Changes to various permitted development rights in England

Date: 5 April 2024

The CLA is the membership organisation for owners and managers of land, property and businesses in rural England and Wales. Our 26,000 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.

General Comments

1. The CLA welcomes this consultation on changes to various permitted development rights (PDRs) in England. PDRs play a significant role in reducing the number of planning applications for uncontentious development and help reduce the regulatory burden of the planning system. They enable landowners and homeowners to make improvements to their property in a more cost efficient and straight forward way.

2. In the CLA's opinion, the greater use of PDRs is economical as it leads to savings for Local Planning Authority (LPA) departments that would benefit not only service users but also tax payers. Reducing the number of planning applications made to LPAs allows them to focus resource on the preparation of local planning policies which concentrate on what development for an area will look like. An up to date Local Plan for an area can ensure better efficiencies for decision making which positively impacts the planning system as a whole.

3. Furthering the scope of PDRs should reduce the number of full planning application submissions that require assessment against local and national planning policies and engagement with consultees. Whilst prior approval applications are still subject to a determination process, this is within a shorter timeframe and is against the relevant prior approval matters which can lead to less opposition from consultees. We know that resourcing is a major issue for LPA departments and the introduction of the proposals forming this consultation will contribute in a small way to addressing this.

4. PDRs are crucial to enabling desirable small-scale development that is generally unachievable within the current planning system due to the cost of submitting a planning application and delays beyond the statutory 8 week determination period. Our members inform us that they tend to abandon proposals before they reach planning application stage and that many more are abandoned once submitted, before they reach the point of decision. In particular, members intending to undertake decarbonisation works (particularly to heritage buildings) abandon projects due to the limited financial return they will receive once the fees of the planning application process have been considered.

5. It is important that some proposals go through an appropriate planning application process, but PDRs should be used wherever that is not the case. We particularly support the proposals within this consultation to expand householder PDRs and further expand the scope for the installation of air source heat pumps and EV charging infrastructure. Fundamentally, the expansion of PDRs encourages rural businesses to further consider investment and decarbonisation. This investment leads to additional contributions to the rural economy, leading to benefits for the economy as a whole.

6. We would also support the extension of PDRs for more sites and buildings within Article 2(3) Land. Failing this, we would welcome amendments to planning practice guidance and policies that encourage LPAs to give favourable consideration to development that would normally fall under PDRs but are restricted due to designation.

Changes to the permitted development rights for householder development

The enlargement, improvement or other alteration to homes:

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?

7. Yes.

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?

8. Yes.

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

9. Yes.

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?

10. Yes.

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

11. Yes, if the adjacent non-residential use would be harmful to residential amenity in terms of visual impact (overlooking) or noise impact.

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?

12. No. we have concerns that removing A.1 (b) from Class A will result in extensions to dwellings that are inappropriate in terms of design and appearance. The amenity of residents or neighbours could be impacted by extensions that exceed 50% of the total area of the curtilage through loss of daylight and sunlight or impacts on minimum garden sizes. An alternative option could be to introduce a requirement for prior approval for any proposal that would exceed 50% of the total area of curtilage. This would enable proposals that are appropriate and not harmful to be considered under the PDR regime.

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)?

13. Yes

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?

14. Yes.

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

15. We would support enabling the construction of single-storey wrap around L-shaped extensions if they were subject to prior approval. This is to ensure that development is assessed to confirm that is not harmful to the surrounding area in terms of design or amenity.

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

16. Please see answer to Question 9. Prior approval should be required for wrap around L-shaped extensions. This would ensure a limitation on potential impacts, particularly in relation to drainage, appearance and amenity.

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?

17. A.1(a) excludes Class A PDR if the use of the dwellinghouse was granted by virtue of Class M, N, P, or Q of Part 3. The limitation on the use of Class A PDR should be amended to enable extensions of dwellings that have been granted by virtue of the Class Q PDR. This will provide the opportunity to deliver more aesthetically pleasing designs to this type of development and would enable more cohesive floorplans. It will also provide

homeowners of these types of properties to benefit from householder PDRs and enable flexibility for different living styles.

18. In addition, we support the removal of the limitations contained at A.2(a) – (c) which prevents the type of householder development that can be undertaken in Article 2(3) Land. In particular, the limitation set out at A.2(a) of Class A prevents development that could be visually acceptable and present like for like development within Article 2(3) Land. This limitation should be removed. The development of materials such as artificial stone over recent years has resulted in high quality materials that are acceptable in terms of appearance and more financially viable for homeowners to install. Limitations on materials in Article 2(3) Land further hinder homeowner ambitions for minor development and decarbonisation works.

Additions to the roof (including roof extensions):

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?

19. No. The removal of this limitation entirely is substantial and could lead to development that is disproportionate to neighbouring properties. An increase to the existing limitation should be considered rather than the removal entirely.

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?

20. Yes.

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?

21. Yes. In some instances, for good workmanship to take place, it is necessary that the ridge height increases in a small way. This will enable householders to proceed with work as recommended by contractors, without the need to navigate a full planning application which is both costly and time-consuming.

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

22. Yes, in principle we support the application of Class B, Part 1 to flats. We have concerns regarding the structural capability of these buildings and this must be considered as part of any proposal and could be a matter for prior approval.

Other alterations to the roof (including roof windows):

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?

23. Not sure.

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)?

24. Yes.

Buildings etc incidental to the enjoyment of a dwellinghouse:

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

25. Yes.

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)?

26. Yes.

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?

27. Yes.

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?

28. No. There is already a high level of control for scheduled monuments. Any development which disturbs the soil of a scheduled monument requires scheduled monument consent irrespective of any need for planning permission. Development that does not disturb the soil would not cause any physical harm to the scheduled monument and therefore is not deemed as unacceptable. It is also likely that work of this nature would be readily reversible, and/or temporary. We see little substantive purpose in not enabling the PDR for a dwellinghouse or land within the curtilage of a scheduled monument. This would lead to considerable additional costs and delay to owners, and costs to LPAs, which would be disproportionate to any benefit.

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?

29. Yes, the expanded scope of PDRs for householder development will reduce the number of householder planning applications that are submitted to LPAs. This will contribute to reducing the time spent processing these applications which will subsequently reduce cost and resource needs at a Local Authority level.

Changes to the permitted development rights for building upwards

The upward extension of buildings:

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)?

30. Yes – amended to an alternative date such as 1930. This would enable the PDR to be further utilised on those buildings built between 1930 and 1948 and would enable development that is of a betterment to an area's character and appearance. To remove the restriction entirely risks it being misused and applying to any building or dwelling.

31. In addition, the PDR should be made available for listed buildings.

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

32. The Prior Approval process for building upwards requires developers to provide LPAs with a report on construction management. This goes beyond the scope of many other prior approval matters for various other PDRs and could be streamlined. Rather than the removal of 3(a) entirely, it should be rephrased to require a construction management plan at the time of submission. LPAs would be able to secure and enforce against this by way of a planning condition requiring compliance with the document.

Changes to the permitted development right for demolition and rebuild

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?

33. Yes, this will enable the delivery of new homes on sites that have been previously developed, contributing to housing need.

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

34. Consequences on embodied carbon footprint of any newer buildings must be considered. The energy used to deconstruct a building and remove/dispose of any waste releases

carbon dioxide into the atmosphere. The construction of a new replacement building will then require more materials and energy, creating more embodied carbon. The re-use or recycling of building materials can reduce the embodied carbon of demolition and rebuild and should be considered.

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?

35. No.

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?

36. Yes. Allowing an increase in footprint is sensible as will improve the viability of some schemes and enable further use of the Class ZA PDR. Enabling flexibilities from Class A, Part 7 will mean that development that accords with nationally described space standards is more achievable.

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

37. No.

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?

38. Yes, as businesses evolve, buildings become unfit for purpose and require re-use. The proposed changes to Class ZA of Part 20 will allow the further redevelopment for sites that may have otherwise be deemed as unsuitable or unsustainable development. Permitting their re-use not only enables them to be used to meet housing need but the increase in footprint will increase not only the number of homes but also the standard in which they are built. In addition, the increase in footprint will bring more of these sites into the scope of the PDR and encourage the development of sites that were once considered as unviable for Class ZA.

Changes to the permitted development rights for the installation of electrical outlets and upstands for recharging electric vehicles

Q.36 Do you agree that the limitation that wall-mounted outlets for EV charging cannot face onto and be within 2 metres of a highway should be removed?

39. Yes. We support the proposals to further the scope for the installation of electrical outlets and upstands for recharging electric vehicles. Electric vehicles are key in encouraging

sustainable transport methods and are one way to reduce greenhouse gas emissions. By facilitating the installation of EV charging infrastructure through PDRs, it motivates the transition away from petrol and diesel powered vehicles.

Q.37 Do you agree that the limitation that electrical upstands for EV charging cannot be within 2 metres of a highway should be removed?

40. Yes.

Q.38 Do you agree that the maximum height of electric upstands for EV recharging should be increased from 2.3 metres to 2.7 metres where they would be installed in cases not within the curtilage of a dwellinghouse or a block of flats?

41. Yes but with restrictions. We would support the increase in height for upstands in non-residential areas. Specifically, we support the inclusion of a restriction which states that upstands cannot be taller than 2.3 metres when they are within 10 metres of the curtilage of a residential development or a Conservation Area. This brings the proposed height increase in line with the proposals contained at Paragraph 60 of the consultation but also prevents potential harm to the character or appearance of a Conservation Area.

Q.39 Do you agree that permitted development rights should allow for the installation of a unit for equipment housing or storage cabinets needed to support non-domestic upstands for EV recharging?

42. Yes.

Q.40 Do you agree that the permitted development right should allow one unit of equipment housing in a non-domestic car park?

43. Yes.

Q.41 Do you agree with the other proposed limitations set out at paragraph 60 for units for equipment housing or storage cabinets, including the size limit of up to 29 cubic metres?

44. Yes.

Q.42 Do you have any feedback on how permitted development rights can further support the installation of EV charging infrastructure?

45. Yes, these PDRs should also apply to listed buildings. The current exception of the installation of electrical upstands within the curtilage of a listed building further discourages occupiers from decarbonisation. Any works would still require listed building consent over and above permitted development conditions and therefore buildings would be well protected from harmful development.

Impact assessment:

Q.43 Do you think that any of the proposed changes in relation to the Class D and E of Part 2 permitted development right could impact on: a) businesses b) local planning authorities c) communities?

46. Yes, the proposed changes will have a positive impact on businesses, LPAs and communities. In 2021, the Transport Decarbonisation Plan pledged to end the sale of petrol and diesel cars and vans by 2030. The government estimates this will require between 280,000 and 720,000 public charge points, as well as millions of home charge points. Whilst the ban on the sale of petrol and diesel cars has been extended from 2030 to 2035, there will still be an increased demand on charge points and this cannot be ignored.

47. The cost for rural areas to upgrade to electric charging points is disproportionately high. Enabling an extension of the existing PDRs for this kind of development will make these kinds of upgrades more viable. It will also increase their installation, particularly in rural areas which will contribute to improving the network of charge points.

Changes to permitted development right for air source heat pumps within the curtilage of domestic buildings

Q.44 Do you agree that the limitation that an air source heat pump must be at least 1 metre from the property boundary should be removed?

48. Yes, but with restrictions. The report clearly sets out limitations in the findings that are being disregarded:

    a. The current sound emission limit of 42 dB constrains the deployment of air source heat pumps where there is a higher density of properties (such as a block of flats or terraced houses).

    b. Noise assessments may underestimate the sound levels from air source heat pumps and there can be discrepancies between operating conditions and installation locations.

    c. The MCS 020 assessment does not take account of the acoustic characteristics of an air source heat pump which can increase the adverse effect caused by the noise.

    d. Location and proximity of air source heat pumps to neighbouring properties are a key cause of noise complaints. According to installers and LPAs, complaints are typically resolved through moving or replacing the equipment.

49. Therefore, the limitation should be amended so that it is removed in all cases apart from when the air source heat pump would be within 1m of a flat or terrace of 4 or more properties.

Q.45 Do you agree that the current volume limit of 0.6 cubic metres for an air source heat pump should be increased?

50. Yes, installations that will serve multiple properties (such as a terraces or semi-detached properties) require air source heat pumps that exceed 0.6 cubic metres. Increasing the limit will enable installations of pumps for these properties, providing them with an efficient way to upgrade heating systems.

Q.46 Are there any other matters that should be considered if the size threshold is increased?

51. None that we are aware of.

Q.47 Do you agree that detached dwellinghouses should be permitted to install a maximum of two air source heat pumps?

52. No, whilst most detached dwellings will likely only install one air source heat pump, some will inevitably need to install more. This is particularly relevant for larger, generally older dwellings that are less energy efficient and will require more than one or two pumps.

Q.51 Do you have any views on the other existing limitations which apply to this permitted development right that could be amended to further support the deployment of air source heat pumps?

53. Yes, these PDRs should also apply to listed buildings. The current limitation at G.2 (i) does not permit the installation, alteration or replacement of air source heat pumps on land within the curtilage of a listed building. Along with other restrictions on PDRs for listed buildings, this strongly discourages occupiers from decarbonising their buildings and reducing their energy bills by installing air source heat pumps. Whilst the PDR would enable their installation, alteration or replacement, listed building consent would still be required and would protect any heritage asset from harmful development.

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