



The future of time-limited permitted development rights

Department for Levelling Up, Housing & Communities

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Preface (for CLA readers)

This was a Government consultation (England-only) on the potential extension of two limited and time-limited permitted development rights established in 2020-21: General Permitted Development Order Part 4 Class BB, allowing 'moveable structures' in the curtilage of defined 'historic visitor attractions' and of pubs and restaurants (see Q2 below); and Part 12 Class BA, allowing local authorities to operate markets for an unlimited number of days (see Q1 below). It also asked questions about permitted development for the Ministry of Defence. The consultation was at [Supporting defence infrastructure and the future of time-limited permitted development rights - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/supporting-defence-infrastructure-and-the-future-of-time-limited-permitted-development-rights). The CLA response was submitted online. It also (see Q.2.h below; though this was not part of the consultation) sets out a case for continuing the 2020-21 Class BA extension of 28 days to 56 days for one more year (ie for 2022).

Responses to the specific consultation questions

Right for markets by or on behalf of local authorities (Class BA)

Q.1.a. Do you agree that the right allowing markets to be held by or on behalf of local authorities for an unlimited number of days per year (Part 12, Class BA) should be made permanent?

Yes, because it is likely to have beneficial economic impacts, but this is largely outside our field of interest and knowledge, so we do not comment in detail.

Q.1.b. Do you have any evidence as to any benefits and impacts as a result of introducing this right for markets, or have views of future impacts were the right made permanent?

Don't know. This is largely outside our field of interest and knowledge.

Q.1.c. Do you think that there should be a limit on the number of days that this right can be used for in a calendar year?

Don't know. This is largely outside our field of interest and knowledge.

Q.1.d. Do you have views on whether there should be additional restrictions on the use of this right to mitigate against potential impacts of making this permanent, including proximity to scheduled monuments?

We certainly do not wish to see damage to scheduled monuments, though of course any physical change to a scheduled monument requires scheduled monument consent, and would be an offence without that, and enforcement is common, so it seems unlikely that this would be a significant problem in practice (and much the same would be true of listed buildings, given that any physical change affecting their special interest requires listed building consent).

We would certainly not accept any argument that markets “are inappropriate near heritage”: markets have been happening in and around heritage for at least a millennium, and are a part of the economic activity which helps to pay for heritage, alongside other environmental and cultural public goods.

Right for the provision of moveable structures (Class BB)

Q.2.a. Do you agree that the right allowing for the provision of moveable structures (Part 4, Class BB) should be made permanent?

Yes.

1. Our comments here relate mainly to Class BB in the context of ‘historic visitor attractions’, rather than pubs, cafes, and restaurants, but many of the points will apply to both.
2. The problems which Class BB addresses are significant, and have been exacerbated but not caused by Covid, which is why we think **Class BB should be permanent**.
3. There are two primary points here.
4. Firstly, opening to the public as a ‘historic visitor attraction’, although it can be the core business model of the National Trust, English Heritage, and major attractions, is for most heritage sites likely to be financially marginal at best, or often loss-making. Some sites do this anyway because of the public benefit, but only where this is physically practicable, and where the losses would not be too great.
5. Opening heritage to the public is clearly (other things being equal) of significant public benefit, so practical measures to support that are of public benefit, and in many cases necessary if opening is to happen.
6. Class BB is helpful in many situations, for example where a building is not large enough for a ticket office, shop, café, education space, and/or WCs, or where alterations to

buildings to provide these would be expensive, or undesirable in heritage terms. For some or many sites, therefore, the ability to have these in 'moveable structures' makes opening practicable and viable where otherwise it would not be.

7. The second key point is that the apparent alternative, ie of "simply applying for planning permission", is usually in practice extremely problematic, especially near heritage. A high proportion of local planning authorities have a longstanding but not self-evidently rational fear of moveable structures, and/or of temporary consents, especially near heritage, and will do almost anything to avoid granting planning permission. This problem was acute before 2010, when almost all local planning authorities saw these as "inappropriate" anywhere near heritage, despite the absence of any policy or guidance which said that, and however strong the public opening or financial case might be, and almost always refused consent. This improved to some extent after 2010, when Historic England (then English Heritage) issued guidance [*Temporary structures in historic places*](#), though it is concerned more with large marquees for events than the structures envisaged in Class BB. This guidance document sets out (see 4.1-4.2) the substantial heritage benefits of temporary structures, and stresses (6.7) that "there should not be a presumption against temporary structures simply because they are visible in the historic environment". Unfortunately, the presumption in local authorities that they are "inappropriate" remains a major problem, even for small structures. Local authorities do not have to bear any of the responsibility, or costs, of managing and maintaining applicants' loss-making heritage assets ("that's your problem, not ours"). Many local authorities seem unaware of the guidance, and continue to operate a strong (if usually unwritten) presumption against moveable structures; and/or overworked planning officers with limited understanding of heritage, or insufficient time to consider the issues properly, decide that refusal is a "safer" decision to take. The heritage owner/manager therefore needs to put a great deal of resource into making the case, which probably requires a planning consultant, and a considerable cost. Even then, there is a high risk that the local planning authority ignores both the guidance and the arguments, however powerful they may be in heritage and economic terms, and refuses consent anyway, reciting a trite standard sentence about "inappropriateness" which does not demonstrate inappropriateness, or address any of the issues. Without Class BB, therefore, it would be unlikely that its benefits could be secured.

8. The need for Class BB is thus not only a Covid or post-Covid issue: these are endemic problems which Covid has exacerbated but would still be there in future. Making Class BB permanent is therefore the only way of securing its benefits in the long term. It makes securing the benefits of opening much more likely, because permanence gives the heritage site the confidence of knowing that it will be able to open in the long term, rather than just for one season. It also gives the site the ability to invest in appropriate moveable structure(s) for long-term use, which can considerably increase the viability of opening, and allow investment in higher-quality moveable structures.

9. Class BB is therefore likely to (i) keep open sites which otherwise would have closed, (ii) open up sites which otherwise would not have opened, and (iii) increase the number of days on which sites are open. In addition to educational and community benefit, this has multiplier effects on local and national economies, to nearby tourism sites, shops, restaurants, and accommodation, and helps to create economic activity and jobs.

10. **We think the definition of ‘historic visitor attraction’ should be amended to include gardens open to the public**, which it currently omits. There is a significant number of sites which are, or with Class BB could be, in this category, and this seems a desirable and low-risk change. This definition could therefore read:

“For the purposes of Class BB, “historic visitor attraction” means a listed building and/or a garden accessible by members of the public (whether or not for an entry fee) for the purpose of promoting their enjoyment, or advancing their knowledge of the building and/or garden.”

11. As a final but important point, Class BB does not make much difference to the massive problem outlined above: that opening heritage to the public, though very desirable, is generally not financially profitable; that many heritage sites find it very hard to achieve solvency without events income; that often it is impracticable or undesirable to keep events entirely inside the building; but that it is almost impossible in most cases to get planning permission for external structures, because of the belief rooted in most local planning authorities that they are “inappropriate” almost anywhere, and almost always “inappropriate” anywhere near heritage. The 2010 Historic England guidance has only partly lessened this problem. Amending Class BB to permit say large marquees for events could solve the problem, and dramatically improve the viability (or non-viability) of much heritage, but is a greater change than is contemplated in this consultation.

Q.2.b. Do you have any evidence of benefits and impacts as a result of the introduction of the right for moveable structures (Part 4, Class BB), or have views on potential future impacts were the right made permanent?

Yes. But this is difficult to answer in detail because the Class BB right for ‘historic visitor attractions’ is so recent. Some sites have used it and found it very useful, allowing ticket offices, first-time or expanded cafes and/or shops, shelters for staff and volunteers manning car parking, and WCs, but obviously it is difficult to provide firm evidence of its impact given that this was for only a short period, after the main visitor season, or of its potential long-term impact, given that sites were aware that it would apply only for the rest of 2021.

We think more sites would have used it if it had been permanent; or if it had not come relatively late in the year: by the time it was available and communicated, and a movable structure could have been organised/ ordered/delivered/set up, the main visiting season had almost come to an end.

We feel that if this were made permanent it would be widely used by sites that would benefit from it, and would (as in our response to Q.2.a) keep open sites which otherwise would have closed, open up sites which otherwise would not have opened, and increase the number of days on which sites are open. All this is of public benefit.

Q.2.c. Do you think the right for moveable structures (Part 4, Class BB) should be limited to 56 days per calendar year?

No. A 56-day limit – less than two months – would be considerably better than nothing, and would enable opening in a proportion of cases, but often this would not be enough, because the set-up etc costs of the moveable structure have to be written off over that period. In many cases that cost will not be worthwhile, so opening would not happen at all; or it would be limited to 56 days when otherwise it could have been longer.

There would also be problems where a site wishes (or is required by a Conditional Exemption agreement) to open across the year, for example each weekend for 6 months, or periods around specific bank holidays, not just for one continuous 56-day period. Where sites are open, opening seasons have sometimes extended significantly in recent years, and since Covid (many National Trust and English Heritage sites are open almost year-round).

It is probably appropriate to have a limit (though sites which might open almost year-round might contest that). **If there is a limit, we would therefore suggest that it should be more than 56 days, preferably say 180 days.**

We would also suggest that it should be expressed as being “for a period or periods totalling up to [180] days within a calendar year”, to allow for (say) separate spring and autumn periods.

We do not think that many sites would repeatedly set up and take down moveable structures, given the high costs of that – most would probably confine this to one, two, or three periods at most – but it would be possible to express this as “for a period of not more than [180] days in a calendar year, or not more than [three] periods totalling not more than [180] days in a calendar year”.

Q.2.d. Do you think that the right for moveable structures (Part 4, Class BB) could be greater than 56 days, or allowed for an unlimited number of days, in the curtilage of non-listed buildings?

Yes, because the problem of local authorities almost automatically rejecting planning applications for moveable structures (see Q.2.a above) is not confined to listed buildings.

Q.2.e. Do you agree that there should be a height limit for the moveable structures of 4 metres?

No, but we do not have a strong view on this. Most moveable structures will be less than 4m. A potential disadvantage is that some types, like bell tents, may be more attractive than more basic tents/marquees, but also higher than 4m. A 4m restriction in Class BB might therefore drive sites to use more basic tents instead, given (see Q.2.a above) the extreme difficulty of getting planning permission for anything which was not covered by Class BB.

Q.2.f. Do you agree that there should be a size threshold on the moveable structures allowing them to be up to 50% of the footprint of the existing building on site?

We would suggest some modification of this. Although a 50% limit would be fine for sites with large buildings, it would be problematic for the potentially-large number of sites with small buildings. This latter category will include both gardens with a small house/main building, and houses/buildings which are small or very small (like T E Lawrence's house in Dorset, opened by the National Trust).

Moreover, smaller buildings of course will probably be those least likely to be able to provide ticket office/shop/café/etc facilities inside the building, and most likely to open if Class BB allows this.

We would therefore suggest amending this so that a minimum size of moveable structures, perhaps 100m², is available even where the buildings are small. For example, it could allow moveable structures of up to 50% of the building footprint, or, in cases where the footprint is less than 200m², moveable structures of up to 100m².

Q.2.g Do you have any evidence of impacts specifically on heritage assets, including listed buildings as a result of the introduction of the right for moveable structures (Part 4, Class BB). Do you have any views on potential future impacts on heritage assets were the right made permanent?

We are not aware of any adverse impacts to date. The heritage impacts of Class BB are likely to be overwhelmingly positive:

- (i) by definition, Class BB will not have a negative physical impact on the listed building, because any such physical impact would require listed building consent, which Class BB does not grant. The same is of course true of scheduled monuments.
- (ii) Class BB is likely to reduce wear and tear on the listed building because activities can happen in the moveable structures instead.
- (iii) Class BB for the same reason is likely to reduce the need to alter the listed building.
- (iv) There are obvious educational, community, and economic benefits wherever opening, or opening for more days, is made possible by Class BB.
- (v) Insofar that the use of structures permitted under Class BB generates new net income, that will help to fund the long-term maintenance of the building.
- (vi) There is a possibility that moveable structures could be put in sub-optimal positions, but heritage site owners and managers are likely to take care to considerable avoid that, not least because a less-good visitor experience might damage visitor numbers and income, or bring complaints. Given that the structures are moveable, if site managers did get this wrong it should be relatively easy to move the structures to better positions.

We can see a case for a review of Class BB after say five years, by which time the benefits and any disbenefits should be clearer.

Q.2.h. Do you have views on whether there should be any other additional restrictions on the use of this right (Part 4, Class BB) to mitigate against potential impacts of making this permanent?

As above, there is a case for a review of Class BB after say five years, by which time the benefits and any disbenefits should be clearer.

As noted in Q.2.a above, we think the definition of 'historic visitor attraction' should be amended to include gardens open to the public.

We also, as noted in Q.2.a, would like to see more exploration of extending Class BB to facilitate events income, but that is a greater change than is contemplated in this consultation.

Temporary extension of GPDO Schedule 2 Part 4 Class BA for 2022 only

The rest of this answer has little connection with Q.2.h, but is relevant to the overall consultation and to the extension of the Covid-related time-limited permitted development rights, and relates directly to paragraph 5 in the consultation document. It is placed here because there is no 'Do you have any other comments?' section in the consultation questionnaire. We have also raised this issue directly with DLUHC civil servants, but it is important to feed it into this consultation.

The CLA feels that Government should give consideration to an extension of the permitted development rights for temporary uses of land (GPDO 2015 Schedule 2 Part 4 Class BA), for 2022 only. The extension would allow an additional 28 days, to 56 days, as Government provided in 2020 and 2021.

Paragraph 5 in this consultation says that "it is not proposed to extend the additional days". However, the Covid-19 pandemic has severely impacted the rural economy, including the rural tourism and hospitality sectors. These sectors are relied upon by many of the CLA's 29,000 members who have diversified their farming businesses, in line with government policy, to find alternative sources of income other than from farming.

The recovery from the economic impact of Covid is one challenge faced by rural areas, but the other challenges include responding to community needs for jobs, housing, transport and services in rural areas, and levelling up the economy. The economy in rural areas lags behind urban areas, and the Covid pandemic has exacerbated this lag. Rural areas have an 8% lower productivity compared with urban areas. Farming businesses are also in the process of undergoing a very significant change to payment regimes.

Government has published a Tourism recovery plan that seeks to return the sector to 2019 levels by 2022. For rural tourism to be able to play its part in this recovery, it would be extremely helpful if a further extension in 2022 for an additional 28 days could be provided. The extra days would assist the viability of rural tourism businesses, and the longer-term sustainability of economies in rural areas.

We set out below supporting economic evidence on rural tourism:

The economics of rural tourism

1. Tourism makes an important contribution to the rural economy. In 2018, Gross Value Added (GVA) from tourism in predominantly rural areas was £11.5 billion, contributing 4% of total GVA in predominantly rural areas. By comparison, agriculture, forestry, and fishing together were worth £6bn GVA, and contributed 3% of total GVA in predominantly rural areas. It is estimated that rural tourism spend accounts for between 70% to 80% of domestic tourism spend.
2. In 2019/20 there were 66,800 tourism-related businesses registered in rural areas, accounting for 11% of all registered businesses in rural areas. This compares to 268,000 tourist related businesses accounting for 12% of all businesses in urban areas. Total employment in tourism-related registered businesses is 0.6 million in rural areas, and 2.5 million in urban areas. When considered as a proportion of total employment, the number is higher in rural areas, with 15% of total employment occurring in tourism-related industries in rural areas, compared with 11% in urban areas. The proportion is greater in settlements in sparse settings, where employment from tourism-related registered businesses is 23% of total employment for rural areas and 21% for urban areas.

Impact of Covid-19 on the rural tourism sector: 2020/21

3. Visit England has estimated that domestic tourism spending was £34bn in 2020 compared to £91.6bn in 2019, a reduction of 63%. This is made up of £9.8bn from overnight tourism, down from £24.7bn in 2019, and £24.2bn from day trips, down from £67.0bn in 2019. The total loss is estimated for 2020 at £57.6bn (£14.9bn from overnights and £42.7bn from leisure day trips).
4. For 2021, Visit England has forecasted a recovery to £52.1bn in domestic tourism spending. Although this is up 51% compared to 2020 it still only represents 56% of the level of spending in 2019. This is made up of £13.5bn in domestic overnight tourism spending and £38.6bn in leisure day trip spending.
5. Assuming that rural tourism spend accounts for between 70% and 80% of domestic spend, the estimated loss for 2020 (compared to 2019) in the rural tourism sector is between £40.6bn to £46.2bn. For 2021, the loss is estimated at between £28.2bn and £32.2bn. The total loss for 2020 and 2021 are estimated at between £68.8bn and £78.4bn.

Future forecasts for the sector

6. The 2008 recession led to the introduction of the 'staycation' trend. Up to 2019, although the domestic tourism trend was still strong, it was beginning to stabilize rather than grow, and it was forecast to begin to plateau by the mid-2020s. However, the pandemic has changed this perception, with the impact of travel restrictions leading to a stronger domestic sector. Industry forecasts suggest that the staycation trend could continue to grow until the end of the decade before it begins to plateau. In addition, the next three years could show stronger growth in the sector than in the post-2008 period.

7. But any such growth will put further pressure on infrastructure as well as capacity. According to our data a reduction of 1% in the number of people holidaying in Europe could lead to an increase of 5% in potential demand of people taking a staycation. The concern is that the domestic sector does not have the capacity to handle such an increase. The provision of an additional 28 days temporary uses of land in 2022 should assist significantly in soaking up some of that demand.

Importance of rural tourism in the rural economy

8. When compared to other sections of the rural economy, rural tourism is seen as a driver of economic growth. Since the Rural White Paper in 2001 and the Government's efforts to increase the level of diversification, rural tourism has been the main area of growth. This has proved a vital element for many CLA members' businesses, particularly in terms of maintaining overall business profitability. This is one of the reasons why the impact of the pandemic has been acutely felt by rural enterprises.
9. However, there also needs to be a recognition of the sector's contribution to rural economies. It needs to be seen as an economic driver and one that allows land-based businesses to maintain the fabric of the countryside. It should be stressed that rural tourism has evolved over time: for example, a major growth market is that of eco-tourism, which promotes environmental objectives as well as to increasing public awareness. In addition, rural tourism adds to both physical and mental wellbeing with rural areas becoming increasingly important. It also provides around 400,000 FTE jobs in rural areas.
10. The forthcoming reduction in Basic Payments to farmers and the move towards environmental payments are likely to stimulate further diversification into rural tourism. For land-based businesses, agriculture and rural tourism are not mutually exclusive but rather, create a strong bond that supports both.

The Government's Tourism recovery plan

11. The Government has responded to the impact of Covid-19 on tourism by putting forward a recovery plan with the objective of getting the sector back to pre-pandemic levels by 2022. The plan aims to:
 - Recover domestic overnight trip volume and spend to 2019 levels by the end of 2022, and inbound visitor numbers and spend by the end of 2023;
 - Ensure that the sector's recovery benefits every nation and region, with longer visits, growing accommodation occupancy rates in the low-season and high levels of investment in tourism products and transport infrastructure;
 - Create a more innovative and resilient industry, maximising the potential for technology and data to enhance the visitor experience and employing more UK nationals in year-round quality jobs;
 - Ensure the tourism sector contributes to the enhancement and conservation of the natural and historic heritage, minimises damage to the environment and is inclusive and accessible to all;
 - Return the UK swiftly to its pre-pandemic position as a leading European destination for hosting business events.

12. The increased demand that we have seen during the summer has, to a significant extent, been facilitated by the availability of permitted development rights, and this could also be the case in 2022 if an extension to the temporary uses of land rights were granted.
13. Latest data shows that:
 - According to a survey of customers, up to 2 August, 806 businesses are using the PDR extension. Some 75% of these businesses are farm based;
 - In the 12 months to July 2021, £5.1m has been taken in bookings. It is estimated for August and September 2021, this will increase by between 35% to 40%;
 - This means around 86,200 additional bookings for an average of 2.4 nights.
14. The same survey estimates additional spend within the tourism supply chain as follows:
 - £1.4m at £7 per day (bookings);
 - £6.2m at £30 per day, consisting of:
 - Eating/drinking/takeaways in area: £15;
 - Recreation/entertainment in area: £4;
 - Visitor attractions: £4;
 - Transport during trip: £7.
15. If additional spend takes into account the increased use of off-site services (such as pubs and restaurants), and this averages at £75 per day, this equates to a further £6.5m, giving a total additional spend of £14.1m.

We feel therefore that DLUHC should give serious consideration to extending the temporary uses of land rights for 2022.

Public Sector Equality Duty and Impact Assessments

Q.3. Do you think that any of the proposed changes in relation to the future of the time-limited permitted development rights could impact on: a) businesses b) local planning authorities c) communities

Yes

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

As above, we think there would be positive impacts on businesses, local planning authorities, and communities.

Q.4. Do you think that any of the proposed changes in relation to the future of the time-limited permitted development rights could give rise to any impacts on people who share



a protected characteristic? (Age; Disability; Gender Reassignment; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation.

Don't know

If so, please give details and specify which right/s any comment relates to.

There would probably be positive impacts, for example making visiting easier for the less-able, and allowing community visits. There seems no reason to expect negative impacts.

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