Planning Committee

SUPPLEMENTAL AGENDA

DATE: **Wednesday 12 December 2012**

AGENDA - PART I

12. ANY OTHER URGENT BUSINESS

Which cannot otherwise be dealt with.

Note: In accordance with the Local Government (Access to Information) Act 1985, the following agenda item has been admitted late to the agenda by virtue of the special circumstances and urgency detailed below:-

Agenda item	Special Circumstances/Grounds for Urgency
12 a) Response to the Government's proposals for changes to permitted development	Reason for lateness: Officers from the planning service were seeking to understand the views of other London Boroughs on the proposals prior to preparing this report – to ensure that they could capture a rounded view of the potential responses from London Boroughs in framing their recommendation to members. Reason for Urgency: The Council is required to submit its views o the proposed changes to permitted development, to the secretary of state no later

than 24th December 2012

12A) RESPONSE TO THE GOVERNMENT'S PROPOSALS FOR CHANGES TO PERMITTED DEVELOPMENT (Pages 1 - 44)

Report of the Divisional Director, Planning.

AGENDA - PART II - NIL

REPORT FOR: Planning Committee

Date of Meeting:	12 December 2012
Subject:	Response to the Governments proposals for changes to permitted development
Responsible Officer:	Stephen Kelly, Divisional Director, Planning
Exempt:	No
Enclosures:	Appendix 1: Consultation Paper: "Extending permitted development rights for homeowners and businesses"

Section 1 – Summary and Recommendations

This report seeks to confirm the Local Planning Authority response, on behalf of Harrow Council, to the consultation dated 12 November 2012 on proposed changes to permitted development rights for specific types of residential and non-residential development.

RECOMMENDATION:

That the response set out in Section 2 below be submitted to the Secretary of State as the Council's formal position in respect of this consultation.

Section 2 – Report

On 12th November 2012, the Government published a consultation on changes to the existing provisions relating to certain categories of "permitted development." The consultation follows a Ministerial statement on 6th September 2012, which explained how the measures within the consultation would "…*make it easier for families to undertake home improvements: not just to cut red tape and strengthen individual homeowners' rights, but also to help generate economic activity which will support small traders in particular*…" The Secretary of State went on to suggest that the proposals "*…will mean less municipal red tape to build a conservatory and similar small-scale home improvement and free up valuable resources in local authorities…"*

The full details of the consultation are reproduced as appendix 1.
The proposals focus on parts of the existing Town and Country Planning Permitted Development Order; notably

Householder extensions & garages:

1) Greater flexibility for homeowners in non-protected areas by increasing rear extension limits from a depth beyond the rear wall of currently 4m to 8m for a detached house, 3m to 6m for any other house type. This also includes conservatories. The provision includes limitations on the height of the development
2) The proposals do not change permitted development for flats or extensions of more than one storey.
3) The PD rights for construction of separate outbuildings or separate residential units are not changed.
4) The proposals also seek authorities' views on how the planning system might make it easier to convert garages to habitable accommodation.

Extensions to shops and financial/professional services establishments and Office Extensions

1) Outside of protected areas, the limits of extending premises and offices are proposed to be raised from 50msq to 100msq and floor spaces increased from 25% to 50% for a three year period
2) The consultation would allow the buildings to be built up to the boundary except where the boundary is with a residential property (where the extension should be 2 m away from the boundary)
3) Other limitations and conditions would still apply.

Industrial and Warehouse buildings

1) Outside of protected areas limits for new industrial buildings and warehouses be raised from 100msq to 200msq and floor space increase from 25% to 50%.

Consideration of the proposals

The Governments consultation seeks responses to a series of specific questions (see attached). Officers have given consideration to these questions and have suggested a position below by way of a response. Members of the committee are invited to endorse or modify as appropriate.

Consultation question 1: Do you agree that in non-protected areas the maximum depth for single-storey rear extensions should be increased to 8m for detached houses, and 6m for any other type of house?

Yes ☐ No X

Proposed response

The current levels of permitted development rights, which have worked successfully for many years, are considered to strike the right balance between the unfettered freedom of a property owner to undertake works, and the need for proper and considered scrutiny of proposals in the interests of wider amenity and the public good. The evidence underpinning the proposed changes to permitted development is not robust.

The proposals, read alongside other existing permitted development - such as for the creation of HMO, has the scope to bring about both the significant and unmanaged enlargement of modest residential houses, and their conversion/subdivision into HMO. These “permitted” proposals together will lead to the significant and dramatic transformation of suburban areas where demand for housing is high. Evidence in London, and Harrow already supports the conclusion that these permitted changes will serve to reduce the quality of housing, change the character of areas and erode standards of living for occupiers (because of the already ltd control on room sizes) and neighbours.

There also appears to be no consideration of the cumulative impacts of automatically allowing larger extensions on the natural drainage capacity provided by gardens in urban areas, and upon biodiversity. The LB Harrow also considers that the effects upon neighboring properties has not been fully justified. Poorly designed larger extensions will almost certainly increase neighbor conflict, and the increase in size of rear length of extensions will also lead to the loss of natural light to neighbouring properties. The proposals do not support the NPPF commitment to positive planning that improves the quality and sustainability of the environment. The Right to Light only applies to dwellings who have had natural light for 20 years.

The government’s proposal to limit the changes for a period of 3 years is an admission that the proposals are likely to lead to material harm. The proposition (that these proposals still amount to “sustainable development” under the NPPF) will undermine any subsequent attempt to argue that future extensions up to this size are unsustainable – and will impact upon both enforcement activity and future planning decisions.

Fundamentally, LB Harrow questions whether this would result in a reduction in red tape. In order to confirm that works are permitted development (either prior to commencing works, prior to sale of the property or prior to the limited

period of 3 years coming to an end), homeowners and businesses will be advised to submit an application for a lawful development certificate. Especially where applicants are using finance from institutions (mortgage etc), they will be required to confirm that the project being funded has planning permission – or does not require pp from the LPA.

Data from the benchmarking project undertaken by PAS/CIPFA suggests that officer time undertaken for Lawful development applications is about two thirds of that for a planning application for a similar development, with the fee incurred half that of the corresponding planning fee. Such applications require the submission of technical drawings with their associated costs. In addition to the timescales and costs for the applicant, this would be likely to result in continued demand on officer time with reduced resources to support the work. Unless such applications are accompanied by proposals that allow planning services to become self-financing, the resources available to determine such applications will decline with consequent impact on processing times.

Consultation question 2: Are there any changes which should be made to householder permitted development rights to make it easier to convert garages for the use of family members?

Yes X No ☐

Proposed response

The provisions must be subject to safeguards being introduced that will ensure the conversion is not, at a later date, separated from the main property and made into a separate dwelling. Harrow, alongside many other London Boroughs faces considerable challenges with the creation of “beds in shed” – often constructed using permitted development rights for incidental use. It is important that any use of PD to convert such space into accommodation, includes an explicit provision stating that such use must remain incidental to the use of the parent dwelling – and may not be used as a separate unit of accommodation. This will enable the LPA to apply simple and clear enforcement action in the event that the provision is abused.

For the majority of developments in Harrow, car parking conditions/restrictions are used only rarely – reflecting the Development Plans use of “maximum” parking standards. In the event that circumstances change (generally in respect of historical permissions) then owners are able to apply for removal of the condition, a relatively simple and affordable matter, requiring limited information and low cost without a full reassessment of the parent permission being required.

Question 3: Do you agree that in non-protected areas, shops and professional/financial services establishments should be able to extend their premises by up to 100m^2, provided that this does not increase the gross floor space of the original building by more than 50%?

Yes ☐ No X

Proposed response

The London Borough of Harrow already supports all appropriate proposals to boost economic recovery. The vast majority of proposals for commercial development are approved. Where proposals need to be refused – because of their unacceptable impacts – the LPA already tries hard to find a solution that safeguards the character and amenities of often tightly packed areas, whilst maximizing the potential for economic growth and prosperity of the enterprise.

In London, where commercial activities are usually part of a multi layered mixed use development (such as district shopping parades with residential and commercial uses), the areas to the rear of commercial premises perform a range of functions – as access for safe servicing, as parking for residents or service vehicles, as areas for bin storage (commercial and domestic) and as amenity space for occupiers of flats above. These proposals risk removing the functions and leading to a proliferation of waste bins, cars, servicing onto the street in such parades, as well as depriving residents of urban flats, the use of external amenity space.

This proposal would require extra safeguards – notably with regards to retail premises that are part of a mixed use residential development, to ensure that any developments do not jeopardize shared amenity / servicing and access areas. Clarification of what constitutes a 'boundary' to a residential property is also required, as flats can be located above commercial properties.

This extension of PD rights would also potentially result in significantly larger extensions which may have negative visual impact on an area. Shopping areas can be unique in their configuration and unregulated extensions (in terms of planning) of this size may have detrimental consequences.

Question 4: Do you agree that in non-protected areas, shops and professional/financial services establishments should be able to build up to the boundary of the premises, except where the boundary is with a residential property, where a 2m gap should be left?

Yes ☐ No X

Proposed response

For the above reasons – regarding the use and function of spaces to the rear of such premises, this proposal would require extra safeguards.

In addition, given the functional needs of businesses and the often unrelieved form of such extensions (lacking windows or articulation) the 2metre buffer may not be sufficient to ensure neighbouring residents amenity are safeguarded from large extensions that may well extend the entire length of their property.

The proposed changes in PD rights will therefore result in significant and dominant commercial extensions alongside residential property. Conditions

relevant to the specific case circumstances – and used in tight, urban areas to enable such development will not be possible and neighbour conflict is likely to result if there are residents adjoining or living above. There also needs to be clarification of what is a 'residential property' as homes above shops can often share the rear amenity areas

Question 5: Do you agree that in non-protected areas, offices should be able to extend their premises by up to 100m^2, provided that this does not increase the gross floor space of the original building by more than 50%?

Yes ☐ No X

Proposed response

As above, this proposal would require extra safeguards, notably on the impacts that this could have on parking and transport – as normally adequate parking and access etc can be secured through condition.

Within extensions of this size there is significant scope for the nature of the use to alter to something that might have been otherwise controlled by condition if a formal planning application was required. For example office expansion of this size, may, in certain circumstances, result in additional demand on servicing, parking and/or cycle spaces which could be secured by condition on a planning permission. There is also no compelling evidence that the delay in securing planning permission (often only 8 weeks) has a debilitating impact on local businesses expanding.

Question 6: Do you agree that in non-protected areas, new industrial buildings of up to 200m^2 should be permitted within the curtilage of existing industrial buildings and warehouses, provided that this does not increase the gross floor space of the original building by more than 50%?

Yes ☐ No X

Proposed response

The proposals are underpinned by a presumption that existing industrial building sites are relatively spacious, and are located within mixed urban areas. This is not the case in the London Borough of Harrow. Whilst the Council pro-actively engages with industrial users around the efficient and effective enlargement of floor space, the sensitivity of surrounding uses to industrial operations and activities means that the suitability of this provision depends upon site and use specific considerations that are best considered through the formal planning process.

Historical issues associated with congestion, servicing, waste and acre parking are not able to be addressed by the proposals – despite their significance in determining the associated impact upon surrounding users. Where appropriate, the Government might instead advocate the more expansive issue of Local development Orders by LPA seeking to remove barriers to industrial expansion in for example, purpose built industrial estates.

This is considered to be a more expedient, tailored and appropriate response to this challenge for business, that ties in with the aspirations for local determination and leadership.

Question 7: Do you agree these permitted development rights should be in place for a period of three years?

Yes No X☐

Comments

The proposal for the temporary application of these permitted rights is unsound. In the event that the provisions revert back to former levels, any application submitted after the time limit expires will almost certainly be compromised by arguments that:
1 The previous dimensions (currently proposed) must have been deemed to represent sustainable development under the NPPF and represent a "new benchmark" regardless of the existing provisions;
2 The passing of time with no other material change in circumstances establishes a strong precedent for the proposed measures.
3. The determination of appropriate impacts on amenity of an area within the proposals cannot be extinguished because of a specific date being passed.
4. There is a legitimate expectation created that certain forms of development are acceptable.

Further, Local Planning authorities will need to re-structure their services to reflect both the reduced resources available as a result of the reduced fee income, and the different nature of the workload – particularly and expectation of additional work around LDC's and increased enforcement enquiries. They will inevitably have to determine such applications with cheaper (non professional) officers to address the reduced resource. The temporary proposals will mean that LPA will need to put in place temporary arrangements to address the changes – and then re-structure/organize once again at the end of the temporary period to meet the future demand.

The temporary proposals create significant uncertainty for the community and LPA/Councils and for homeowners seeking to make purchase decisions. The scope for large extensions to dwellings to be undertaken will also have a negative impact upon the value of tightly packed urban areas – where significant enlargement has the potential to undermine house values (with knock on impacts upon taxation and investment risk). They are inefficient and unsound. If the Governments view, despite the widespread concerns expressed, is that these proposals are acceptable, the provisions should change permanently.

Question 8: Do you agree that there should be a requirement to complete the development by the end of the three-year period, and notify the local planning authority on completion?

Yes ☐ No X

Proposed response

The proposals will already undermine a large number of existing statutory enforcement notices and enforcement investigations. The requirement to complete the development raises significant resource implications for enforcing authorities – to determine precisely the state of development at the end of the temporary period. Further, the consequences for owners of homes where development may be substantially complete but not completed at the time that the permission expires, will be potentially significant, and adverse. This is likely to mean that both communities affected by the proposals, and developers undertaking works will face considerable anxiety as a result of this shift in approach.

It is questionable whether, having regard to principles of natural justice, the Courts can support action against those who construct but do no quite complete on the 3 year mark a "permitted" extension given that, at the time that they commenced work, the proposals were deemed to be "acceptable" in planning terms and that natural justice should prevail. The impact assessment makes no realistic assessment of the ability of authorities to instigate enforcement action which may be demanded by communities after the expiry period.

There is scope for significant debate around the determination of "completion." The building regulations definition is the most expedient to use – but potentially the proposition is therefore both ill considered and ill defined and raises fundamental questions regarding the enforceability of such requirements. Placing a time limit on completing a development first requires the implementation of that development and runs contrary to the objectives that the Government has pursued since 2009 in avoiding permissions to lapse on stalled developments.

Question 9: Do you agree that article 1(5) land and Sites of Special Scientific Interest should be excluded from the changes to permitted development rights for homeowners, offices, shops, professional/financial services establishments and industrial premises?

Yes X No ☐

Proposed response

The Council believes that the proposals will result in significant, long term harm to the built environment. Protection of sensitive areas from the effect of the proposals is welcomed

Question 10: Do you agree that the prior approval requirement for the installation, alteration or replacement of any fixed electronic communications equipment should be removed in relation to article 1(5) land for a period of five years?

Yes ☐ No X

Proposed response

The equipment associated with Broadband can be visually imposing in sensitive areas. Feedback from our residents suggests that the existing system is already too relaxed and there should be greater control of setting and appearance than is currently possible. The current prior approval process is an appropriate means to enable dialogue between providers and the LPA and allows authorities to broker proposals that protect their most valued localities.

Do you have any comments on the assumptions and analysis set out in the consultation stage Impact Assessment? (See Annex 1)

Yes X No ☐

Proposed response

There does not appear to be any environmental impact considerations.

Whilst the prior approval process is shown to cost developers wishing to install communications equipment, there is no statistical evidence in this assessment to show that this cost, or the time taken for approval, is hindering the rollout of new equipment.

The impact assessment of the cost to implement the measures is simplistic and fails totally to predict the consequential impact upon developers behaviours, and the reasonable costs associated with additional enforcement activity and organisational re-structure. The proposals are based on the proposition that development is prevented by the need for planning permission. It does not consider the fundamental issues surrounding the availability of finance to undertake development or the opportunity costs arising from the negative impacts upon property values adjoining the development sites which are likely to be significant and permanent. This will have impacts upon primary and secondary taxation.

Financial Implications

The proposals will reduce the number of applications for planning permission, and replace this work with proposals for certificates of lawful development. Such applications attract a fee that is 50% of the planning application fee. Evidence from activity based costing exercises within the service suggest that the processing of LDC's accounts for 2/3 of the costs associated with planning applications. The current fee regime does not cover the cost of providing the service. With some 600 household applications per year, the potential impact upon resources will require a re-structuring of the service to service the lower level demands of LDC.

Given the existing enforcement workload (some 700 complaints per year, and the significant impact that the proposals are expected to have on the amenities of neighbouring properties, officers expect to see an increase in enforcement complaints, and demands for investigation. The change in the

thresholds for what is, and is not, acceptable, may allow the service to “close” a number of existing and outstanding enforcement complaints, but officers expect to have to investigate both development, and if the temporary time period proposed is brought forward, compliance timetables.

The service would need to re-structure, and re-focus, its resource in the event that the proposals were to be implemented. The existing professional resource is unlikely to be able to be sustained within the Council, without additional funding growth. The move from applying officer time to matters of judgement to matters of fact, would provide opportunities to migrate applications from professional officers to technical support staff (who are not necessarily qualified planners) as a means to mitigate the impact of declining fees but it is uncertain how far these measures alone could help contain existing budget pressures.

Risk Management Implications

The proposed response raises no direct risk matters for the Council. In the event that the consultation proposals are enacted in part or in full, the Planning Service will need to revisit its organisational arrangements to identify new areas of risk – particularly around resource use and finance.

Given that the proposal is a consultation – with no certainty of legislative change at the present time, there are no other risks to consider at this stage.

Equalities implications

The government will have to undertake an EQIA on the proposals. The Councils response does not, on its own, relate to any specific protected category.

Corporate Priorities

The proposals will impact upon the ability of the Council to manage the appearance of the built environment, and the amenities of residents and businesses across the borough.

Inappropriate development gives rise to adverse impacts upon environmental, physical social and emotional wellbeing of our residents. The proposals are therefore at odds with the significant work across the Council that seeks to:

- Support town and Local Shopping centres
- Support ad protect people who are most in need
- Keep neighbourhoods clean, green and safe
- Unite and involve communities.

Section 3 - Statutory Officer Clearance

Name: Kanta Hirani Date: 7.12.12	X	on behalf of the Chief Financial Officer
Name: Abiodun Kolawole Date: 7.12.12	X	on behalf of the Monitoring Officer

Section 4 - Contact Details and Background Papers

Contact: Stephen Kelly 020 8736 6149
stephen.kelly@harrow.gov.uk

Background Papers:
Consultation on Extending permitted development rights for homeowners and businesses

Background Papers: None

If appropriate, does the report include the following considerations?

1.	Consultation	NO
2.	Corporate Priorities	YES

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Extending permitted development rights for homeowners and businesses

Technical consultation

November, 2012
Department for Communities and Local Government

This document/publication is also available on our website at www.communities.gov.uk

Any enquiries regarding this document/publication should be sent to us at:

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Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000

November, 2012

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Contents

Introduction

1. Under the current system, homeowners wishing to extend their home more than a few metres from the property's rear wall have to fill in complicated application forms that can take eight weeks or longer for the council to consider. The large majority of homeowner applications are uncontroversial: around 200,000 are submitted each year, and almost 90 percent are approved, in almost all cases at officer level. The application process adds costs and delays, and in many cases adds little value.

2. We propose to make it quick, easier and cheaper to build small-scale single-storey extensions and conservatories, while respecting the amenity of neighbours. We estimate that up to 40,000 families a year wishing to build straightforward extensions will benefit from our proposals, and will be able to undertake home improvements to cater for a growing family or look after an elderly relative without unnecessary costs and bureaucracy. Some 160,000 homeowner applications will continue to be considered through the planning system as at present, including all the larger, more complex and controversial cases.

3. These measures will bring extra work for local construction companies and small traders, as families and businesses who were previously deterred take forward their plans. For illustration, 20,000 new extensions could generate up to £600m of construction output, supporting up to 18,000 jobs. In addition, each family who benefits will save up to £2,500 in planning and professional fees, with total savings of up to £100m a year.

4. Permitted development already removes hundreds of thousands of developments from the planning system every year, benefiting homeowners and businesses of all sizes, and reducing costs and delays. Extending permitted development rights further will promote growth, allowing homeowners and businesses to meet their aspirations for improvement and expansion of their homes and premises.

5. It is of course important to ensure that any impact on neighbours and communities is acceptable. For this reason, safeguards under planning and other regimes will remain in place, and the changes to permitted development rights for homeowners and businesses will not apply in protected areas such as conservation areas, National Parks, Areas of Outstanding Natural Beauty and Sites of Special Scientific Interest. These proposals do not remove the requirement for separate listed building consent.

6. The Government is proposing action in five areas:

   - Increasing the size limits for the depth of single-storey domestic extensions from 4m to 8m (for detached houses) and from 3m to 6m (for all other houses), in non-protected areas, for a period of three years. No changes are proposed for extensions of more than one storey.

   - Increasing the size limits for extensions to shop and professional/financial services establishments to 100m^2, and allowing the building of these extensions up to the boundary of the property (except where the boundary is with a residential property), in non-protected areas, for a period of three years.

   - Increasing the size limits for extensions to offices to 100m^2, in non-protected areas, for a period of three years.

   - Increasing the size limits for new industrial buildings within the curtilage of existing industrial premises to 200m^2, in non-protected areas, for a period of three years.

- Removing some prior approval requirements for the installation of broadband infrastructure for a period of five years.

7. We also wish to explore whether there is scope to use permitted development to make it easier to carry out garage conversions.

8. Other changes to permitted development are also being taken forward separately: making it easier for commercial properties to be converted to residential use; and encouraging the reuse of existing buildings through making changes of use easier. These changes have been subject to consultation already, so are not included in this paper.

The Consultation Process and How to Respond

Topic of this consultation:	The freeing up of planning regulation to allow homeowners and businesses to make larger extensions to their homes and business premises without requiring a planning application, and to allow quicker installation of broadband infrastructure.
Scope of this consultation:	The consultation seeks views on the Government's proposals to amend the Town and Country Planning (General Permitted Development) Order 1995 (as amended) to grant increased permitted development rights allowing homeowners, shops and offices to build larger extensions, for industrial premises to construct larger new buildings within their curtilage, and for quicker installation of broadband infrastructure.
Geographical scope:	These proposals relate to England only.
Impact Assessment:	A consultation stage impact assessment is attached to this consultation document.

Basic information

To:	This is a public consultation and it is open to anyone to respond. We would particularly welcome views from: Local planning authorities Developers Businesses Individuals who may be affected by the changes Community representatives and parish councils
Body/bodies responsible for the consultation:	Department for Communities and Local Government
Duration:	The consultation begins on 12 November 2012 and ends on 24 December 2012. This is a six week period.
Enquiries:	Helen Marks E-mail: Helen.marks@communities.gsi.gov.uk
How to respond:	By e-mail to: PlanningImprovements@communities.gsi.gov.uk A downloadable questionnaire form, which can be emailed to us, will be available on our website. Alternatively paper communications should be sent to: Helen Marks Permitted Development Rights – Consultation Department for Communities and Local Government Zone 1/J3 Eland House Bressenden Place London SW1E 5DU

Background

Getting to this stage:	The current framework for permitted development is contained in the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

Previous engagement:	No changes have been made to these parts of the General Permitted Development Order under this Government.

Policy Context

9. The measures outlined in this paper will ease the planning restrictions and costly bureaucracy that prevents families and businesses from making improvements to their property. Thousands of people will be helped to move up the property ladder and will be able to expand their homes to accommodate a growing family or take care of an elderly relative without having to relocate. Cutting back municipal red tape in this way will help businesses to grow and thrive, and could provide a particular boost for small traders and small builders. This continues the Government's programme of simplifying and streamlining the planning system and reducing burdens on families and businesses.

10. These added flexibilities will not be at the expense of neighbours and the surrounding community. Protections which are currently in place, both within the planning system and in other regimes, will remain, and these changes will not apply in conservation areas, National Parks, Areas of Outstanding Natural Beauty and Sites of Special Scientific Interest.

11. These proposals will also help to provide essential business infrastructure for a modern economy, and will contribute towards delivery of the Government's ambition for the UK to have the best superfast broadband network in Europe by 2015.

Legal Background

12. The Town and Country Planning Act 1990[1] sets out the changes to land or buildings which constitute 'development' and which are therefore subject to planning control. However, many types of development have only minor impacts, or impacts which can be controlled by standard conditions. It would be an unreasonable burden to require planning applications for these developments, so they are given a national grant of planning permission via permitted development rights.

13. Permitted development rights are set out in the Town and Country Planning (General Permitted Development) Order 1995 (as amended). Schedule 2 contains various Parts, each of which deals with a different aspect of permitted development. The Parts which are relevant to this consultation[2] are:

- Part 1 (Development within the curtilage of a dwellinghouse)
- Part 8 (Industrial and warehouse development)
- Part 24 (Development by electronic communications code operators)
- Part 41 (Office buildings)
- Part 42 (Shops or catering, financial or professional services establishments)

14. The General Permitted Development Order sets out both what is allowed under permitted development, and any limitations and conditions that apply. Where a proposed development does not fall within the permitted development limits, this does not mean

[1] Town and Country Planning Act 1990, s.55.

[2] A complete and up-to-date version of Part 1 appears in The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 (SI 2008 No. 2362). The Government has also published Technical Guidance on Part 1; this is available at http://www.planningportal.gov.uk/uploads/100806_PDforhouseholders_TechnicalGuidance.pdf . Complete and up-to-date versions of Parts 8, 41 and 42 appear in The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010 (SI 2010 No. 654). Part 24 of the General Permitted Development Order was introduced in England by SI 2001 No. 2718 and amended in 2003 by SI 2003 No. 2155. Statutory instruments are available at http://www.legislation.gov.uk/

that the development is not acceptable and cannot be built. It means that an application for planning permission needs to be made so that the local planning authority can consider all the circumstances of the case.

15. Permitted development only covers the planning aspects of the development. It does not remove requirements under other regimes (e.g. building regulations, the Party Wall Act[3] or environmental legislation). While these permitted development rights may apply to listed buildings outside protected areas, they only grant planning permission and do not remove the requirement for separate listed building consent.

16. There is already scope for local planning authorities to tailor permitted development rights to their own particular circumstances. They can be extended by means of local development orders, following local consultation. Alternatively, if there are genuine local concerns, councils can consult with the community about whether there are exceptional circumstances that merit withdrawal of permitted development rights locally using existing powers known as article 4 directions.[4] The National Planning Policy Framework is clear that the use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area.[5]

Proposals for Change

Increased limits for homeowner rear extensions and conservatories

17. At present, single-storey rear extensions with a depth beyond the rear wall of 4m for a detached house, and 3m for any other type of house, are allowed under permitted development rights, subject to various limitations.[6] To provide greater flexibility for homeowners who wish to improve and enlarge their properties, we propose that in non-protected areas these limits should be increased to 8m for a detached house, and 6m for any other type of house. This would also cover conservatories at the rear of properties.

18. We are not proposing any changes for flats, which do not have permitted development rights for rear extensions, and are not proposing any changes for extensions of more than one storey, which under permitted development can have a maximum depth of 3m beyond the rear wall.

19. To ensure that the amenity of neighbouring properties is protected, other limitations and conditions would remain the same. For example, development will not be able to cover more than 50% of the curtilage of the house, single-storey extensions must not exceed 4m in height, and any extensions which have an eaves height of greater than 3m must not be within 2m of the boundary. In addition, existing protections under other regimes (building regulations, the Party Wall Act or the 'right to light',[7] for example) will continue to apply. There is no weakening of the National Planning Policy Framework policies which aim to prevent garden-grabbing.

[3] See glossary.
[4] See glossary.
[5] National Planning Policy Framework, paragraph 200.
[6] This is set out in Schedule 2, Part 1, Class A, A1(e)(i) of the General Permitted Development Order.
[7] See glossary.

20. The proposals do not grant permitted development rights for the construction of separate outbuildings for residential accommodation, or for the creation of separate residential units. They do not reduce the wide range of powers which local authorities have to tackle the unauthorised 'beds-in-sheds' development carried out by a small minority of unscrupulous landlords.[8]

Question 1: Do you agree that in non-protected areas the maximum depth for single-storey rear extensions should be increased to 8m for detached houses, and 6m for any other type of house?

Making it easier to carry out garage conversions

21. The Government is keen to support family annexes and is looking at how best to remove council tax and regulatory obstacles. A live-in annex for immediate relatives such as teenagers or their elderly grandparents will help increase housing supply and help ensure the elderly have dignity and security in retirement.

22. The use of existing garages for residential accommodation, where no separate residential unit is created,[9] does not usually require planning permission, as it does not constitute 'development'. Where alterations are made which change the external appearance, such as the insertion of windows, this may constitute development. In most cases, these alterations can be carried out under permitted development rights. If there is a particular local problem with parking, councils may consider exercising an Article 4 direction, provided that there is a clear justification for doing so in accordance with the National Planning Policy Framework.

23. Local authorities sometimes impose conditions restricting the conversion of garages, particularly in new developments. Such conditions should not be imposed unless they are fully justified, for example there is reason to believe that parking problems would otherwise result. Garages can provide a valuable source of extra space, and wherever possible, families should be able to adapt them to meet their changing needs.

24. Permitted development rights currently allow for improvements and alterations to garages, which can facilitate their conversion.[10] This already helps homeowners to provide extra family accommodation – however, we are keen to explore whether more could be done.

Question 2: Are there any changes which should be made to householder permitted development rights to make it easier to convert garages for the use of family members?

[8] The Department for Communities and Local Government has published a guide on all the powers councils have to tackle unauthorised development: *Dealing with rogue landlords: A guide for local authorities* http://www.communities.gov.uk/publications/housing/roguelandlordsguide

[9] Whether a separate residential unit is created depends not just on the physical structures involved, but on the way the annex is used, and by whom – for example, whether the occupant is a close relative, and lives as part of the main household.

[10] Under Class A if the garage is an integral part of the house; under Class E if it is a freestanding outbuilding.

Increased limits for extensions to shops and financial/professional services establishments, with development to the boundary of the premises

25. Shops and financial/professional services establishments are currently able to extend their premises by up to 50m^2, provided that this does not increase the gross floor space of the original building by more than 25%, and subject to various other limitations.[11] We propose that outside of protected areas, these limits should be raised to 100m^2 and 50%. This will bring significant benefits for businesses, and will allow them to grow quickly without the need for costly and time-consuming planning applications. To give businesses extra flexibility, we also propose that they should be able to build up to the boundary of the premises, except where the boundary is with a residential property, when the requirement to leave a 2m gap along the boundary would remain.

26. Other limitations and conditions would remain the same, and existing protections under other regimes will continue to apply. For example, the height of the building as extended must not exceed 4m, and the development must not consist of changes to a shop front, or extensions beyond a shop front.

Question 3: Do you agree that in non-protected areas, shops and professional/financial services establishments should be able to extend their premises by up to 100m^2, provided that this does not increase the gross floor space of the original building by more than 50%?

Question 4: Do you agree that in non-protected areas, shops and professional/financial services establishments should be able to build up to the boundary of the premises, except where the boundary is with a residential property, where a 2m gap should be left?

Increased limits for extensions to offices

27. Offices are currently able to extend their premises by up to 50m^2, provided that this does not increase the gross floor space of the original building by more than 25%, and subject to various other limitations.[12] We propose that outside of protected areas, these limits should be raised to 100m^2 and 50% in order to provide greater flexibility for business expansion.

28. Other limitations and conditions would remain the same, and protections under other regimes will continue to apply. For example, buildings within 10m of the boundary must not be more than 5m high, in other cases the extension cannot exceed the height of the existing building, and new extensions must not be within 5m of the boundary.

Question 5: Do you agree that in non-protected areas, offices should be able to extend their premises by up to 100m^2, provided that this does not increase the gross floor space of the original building by more than 50%?

[11] This is set out in Schedule 2, Part 42, Class A, A1(a) and (c) of the General Permitted Development Order.
[12] This is set out in Schedule 2, Part 41, Class A, A1(a) of the General Permitted Development Order.

Increased limits for new industrial buildings

29. At present, new industrial buildings or warehouses which are up to 100m^2 in size can be built within the curtilage of an existing industrial building or warehouse in a non-protected area, provided that this does not increase the gross floor space of the original building by more than 25%.[13] We propose that outside of protected areas, these limits should be raised to 200m^2 and 50%. This will allow these businesses to expand quickly without the time and expense of going through the planning process. There are already generous limits for the extension of industrial and warehouse buildings (up to 1,000m^2), so no changes are proposed to those limits.

30. To protect local amenity, other limitations and conditions would remain the same, and existing protections under other regimes will continue to apply. For example, buildings within 10m of the boundary must not be more than 5m high, there must be no building within 5m of the boundary, and there must be no reduction in the space available for parking or turning of vehicles.

Question 6: Do you agree that in non-protected areas, new industrial buildings of up to 200m^2 should be permitted within the curtilage of existing industrial buildings and warehouses, provided that this does not increase the gross floor space of the original building by more than 50%?

A time limit on the changes

31. We propose that these changes to permitted development rights should be in place for a period of three years, starting from the date at which the secondary legislation implementing these changes comes into force. This is because we recognise that current economic circumstances require exceptional measures to assist hard-pressed families and businesses, and to stimulate growth.

32. In order to provide certainty to neighbours and communities, and to make sure that the three-year window is effective, we propose that developments will have to be completed by the end of the three-year period. This is different from planning permissions, which specify a time limit within which the development must commence, but which allow for completion later. Homeowners and businesses wishing to exercise their rights under these changes will be required to notify the local planning authority on completion of the development. Where this notification is not received by the end of the three-year period, the development will not count as permitted development, and could be subject to enforcement action.

33. We will keep the impact of these measures, and whether there may be a case for their continuation at the end of the three-year period, under review.

Question 7: Do you agree these permitted development rights should be in place for a period of three years?

Question 8: Do you agree that there should be a requirement to complete the development by the end of the three-year period, and notify the local planning authority on completion?

[13] This is set out in Schedule 2, Part 8, Class A, A1(d) of the General Permitted Development Order.

Protected areas

34. In order to make sure that there is no adverse impact on protected areas, we propose that the changes listed above should not apply on 'article 1(5) land'.[14] The main areas this covers are:

- National Parks
- Areas of Outstanding Natural Beauty
- conservation areas
- World Heritage Sites
- the Norfolk and Suffolk Broads

In addition we propose that the changes should not apply on Sites of Special Scientific Interest.

Question 9: Do you agree that article 1(5) land and Sites of Special Scientific Interest should be excluded from the changes to permitted development rights for homeowners, offices, shops, professional/financial services establishments and industrial premises?

Delivery of Superfast Broadband

35. When the permitted development rights were first introduced in 2001, the nature and needs of the technology and the likely impacts on surrounding areas were still being explored. Therefore, an approach was taken which combined permitted development rights with prior approval for certain works in certain areas. At present, under part 24 of the General Permitted Development Order, fixed broadband apparatus such as cabinets, telegraph poles, and overhead lines have permitted development rights, which means they can be installed without the need to apply for planning permission. This is subject to a prior approval process on article 1(5) land which allows planning authorities to consider the siting and appearance of communications apparatus before development commences. These permitted development rights liberalise the planning system and allow for speedier deployment of communications infrastructure, although the prior approval process can create uncertainty for developers and prolong the time taken on installation.

36. We propose to remove this prior approval requirement as it applies to article 1(5) land. This change will be for a period of five years, and all works will have to be completed by the end of that period in order to count as permitted development. [15] The Government will be asking the relevant operators to work with local planning authorities to agree good practice so that all parties are aware of how and when roll-out will be delivered in their area, and the principles governing siting and design.

37. There is now a considerable body of experience and good practice in the delivery of this infrastructure, and it is essential for growth and international competitiveness that we deliver on our ambition for the UK to have the best superfast broadband network in Europe by 2015. This will not only boost UK businesses, but will ensure that rural areas can share the same benefits as cities, and that everyone across the country can be certain of access to a fast reliable network.

[14] 'Article 1(5) land' refers to types of areas set out in article 1(5) of the General Permitted Development Order.

[15] These proposals relate to the infrastructure used for the fixed broadband service, which does not include masts, certain types of antenna, public call boxes, radio equipment housing over a certain size and development ancillary to such radio equipment: see Schedule 2, Part 24, Class A, paragraph A2(4)(b) of the General Permitted Development Order.

38. The prior approval requirement will continue to apply in Sites of Special Scientific Interest in order to ensure that these sensitive sites are not damaged.

39. The Electronic Communications Code (Conditions & Restrictions) Regulations currently require all lines to be placed underground except in certain circumstances such as where poles already exist, or it is not practical to do so. The Department for Culture, Media and Sport will be consulting later this month on a proposal to relax the restriction on overhead lines everywhere except in Sites of Special Scientific Interest.

Question 10: Do you agree that the prior approval requirement for the installation, alteration or replacement of any fixed electronic communications equipment should be removed in relation to article 1(5) land for a period of five years?

Benefits and Impacts from our Proposals

40. These proposals will offer benefits to individuals, businesses and the economy as a whole. Individuals will be able to get on with an extension without needing to go through the slow and costly process of applying for planning permission, and more people will be able to properly house their growing families and care for elderly relatives. Savings to individual homeowners could be up to £2,500, and we estimate that up to 40,000 families a year could benefit from these savings.

41. Individual businesses will benefit from the freedom to expand and improve their existing premises. They will be able to grow and thrive without the disruption and cost of relocating. These measures will also bring extra work to small construction businesses and traders – approximately 30 jobs are supported for every additional £1m spent on housing repairs and maintenance. The amount of extra development which will come forward will depend on how many families and businesses who were previously deterred by the planning application process now decide to develop. For illustration, 20,000 new extensions could generate up to £600m of construction output, supporting up to 18,000 jobs.

42. Businesses and communities, particularly in rural areas, will benefit from quicker roll-out of broadband, and this essential business infrastructure will help to build a modern and competitive economy.

43. It is important that any impacts on neighbours and communities are minimised. Protections and limitations, both within the planning system and other regimes (such a building regulations or the Party Wall Act) will still remain in place, and the changes to permitted development rights for homeowners, offices, shops, professional/financial services establishments and industrial premises will not apply in conservation areas, National Parks, Areas of Outstanding Natural Beauty or Sites of Special Scientific Interest. Larger, more complex and controversial proposals will continue to go through the planning system to ensure that their impacts can be fully considered.

Consultation Questions – Response Form

We are seeking your views to the following questions on the proposals to increase the permitted development rights for homeowners, businesses and installers of broadband infrastructure.

How to respond:

The closing date for responses is 5pm, 24 December 2012.

This response form is saved separately on the DCLG website.

Responses should be sent to: PlanningImprovements@communities.gsi.gov.uk

Written responses may be sent to:
Helen Marks
Permitted Development Rights – Consultation
Department for Communities and Local Government
1/J3, Eland House
Bressenden Place
London SW1E 5DU

About you

i) Your details:

Name:	
Position:	
Name of organisation (if applicable):	
Address:	
Email:	
Telephone number:	

ii) Are the views expressed on this consultation an official response from the organisation you represent or your own personal views?

Organisational response ☐

Personal views ☐

iii) Please tick the box which best describes you or your organisation:

District Council ☐

Metropolitan district council	☐
London borough council	☐
Unitary authority	☐
County council/county borough council	☐
Parish/community council	☐
Non-Departmental Public Body	☐
Planner	☐
Professional trade association	☐
Land owner	☐
Private developer/house builder	☐
Developer association	☐
Residents association	☐
Voluntary sector/charity	☐
Other	☐

(please comment):	

iv) What is your main area of expertise or interest in this work? (please tick one box)

Chief Executive	☐
Planner	☐
Developer	☐
Surveyor	☐
Member of professional or trade association	☐
Councillor	☐
Planning policy/implementation	☐
Environmental protection	☐
Other	☐

(please comment):	

Would you be happy for us to contact you again in relation to this questionnaire?

Yes ☐ No ☐

ii) Questions

Please refer to the relevant parts of the consultation document for narrative relating to each question.

Question 1: Do you agree that in non-protected areas the maximum depth for single-storey rear extensions should be increased to 8m for detached houses, and 6m for any other type of house?

Yes ☐ No ☐

Comments

Question 2: Are there any changes which should be made to householder permitted development rights to make it easier to convert garages for the use of family members?

Yes ☐ No ☐

Comments

Question 3: Do you agree that in non-protected areas, shops and professional/financial services establishments should be able to extend their premises by up to 100m^2, provided that this does not increase the gross floor space of the original building by more than 50%?

Yes ☐ No ☐

Comments

Question 4: Do you agree that in non-protected areas, shops and professional/financial services establishments should be able to build up to the boundary of the premises, except where the boundary is with a residential property, where a 2m gap should be left?

Yes ☐ No ☐

Comments

Question 5: Do you agree that in non-protected areas, offices should be able to extend their premises by up to 100m^2, provided that this does not increase the gross floor space of the original building by more than 50%?

Yes ☐ No ☐

Comments

Question 6: Do you agree that in non-protected areas, new industrial buildings of up to 200m^2 should be permitted within the curtilage of existing industrial buildings and warehouses, provided that this does not increase the gross floor space of the original building by more than 50%?

Yes ☐ No ☐

Comments

Question 7: Do you agree these permitted development rights should be in place for a period of three years?

Yes ☐ No ☐

Comments

Question 8: Do you agree that there should be a requirement to complete the development by the end of the three-year period, and notify the local planning authority on completion?

Yes ☐ No ☐

Comments

Question 9: Do you agree that article 1(5) land and Sites of Special Scientific Interest should be excluded from the changes to permitted development rights for homeowners, offices, shops, professional/financial services establishments and industrial premises?

Yes ☐ No ☐

Comments

Question 10: Do you agree that the prior approval requirement for the installation, alteration or replacement of any fixed electronic communications equipment should be removed in relation to article 1(5) land for a period of five years?

Yes ☐ No ☐

Comments

Do you have any comments on the assumptions and analysis set out in the consultation stage Impact Assessment? (See Annex 1)

Yes ☐ No ☐

Comments

Thank you for your comments.

Consultation Information

About this consultation

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

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). If you want the information that you provide to be treated as confidential, please be aware that under the Freedom of Information Act 2000, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Communities and Local Government will process your personal data in accordance with the Data Protection Act 1998 and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested. Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

If you have any queries or complaints regarding the consultation process, please contact:
DCLG Consultation Co-ordinator
Zone 6/H10 Eland House
London SW1E 5DU
email: consultationcoordinator@communities.gsi.gov.uk

GLOSSARY

Article 4 directions
Article 4 of the General Permitted Development Order allows local planning authorities to consult with their local communities about whether to withdraw particular permitted development rights over a specified area. Where an article 4 direction is in place, those permitted development rights no longer apply, and a planning application must be submitted. Article 4 directions do not affect development which has already been begun or completed under the permitted development rights.

Guidance on the operation of article 4 directions is available at http://www.communities.gov.uk/documents/planningandbuilding/pdf/2160020.pdf. This states that local planning authorities should consider making article 4 directions only in those exceptional circumstances where evidence suggests that the exercise of permitted development rights would harm local amenity or the proper planning of the area. While article 4 directions are confirmed by local planning authorities, the Secretary of State must be notified, and has wide powers to modify or cancel most article 4 directions at any point.

Curtilage
In general, the curtilage of a house refers to land within the boundaries of the property, including any closely associated structures and buildings. Precisely what is within the curtilage of a house will vary depending on the nature of the property in question.

'Right to light'
The 'right to light', which operates separately from the planning system, protects the rights of owners of buildings with windows which have received natural light for 20 years or more. It will be important for people thinking of constructing an extension under these proposed changes to make sure they don't infringe their neighbours' right to light.

The Party Wall etc Act 1996
The Party Wall Act provides a framework for preventing and resolving disputes in relation to party walls and excavations near neighbouring buildings. Anyone intending to carry out work of the kinds described in the Act must give the Adjoining Owners notice of their intentions. An Adjoining Owner cannot stop someone from exercising the rights given to them by the Act, but may be able to influence how and at what times the work is done through the drawing up of a Party Wall Award. However, if a Building Owner starts work without having first given notice in the proper way, Adjoining Owners may seek to stop the work through a court injunction or seek other legal redress.

The Department publishes an explanatory booklet which sets out the rights and responsibilities of both parties. It also gives information and guidance which individuals may find useful, such as sample letters. The booklet is available at:
http://communities.gov.uk/publications/planningandbuilding/partywall

Title: EXTENDING PERMITTED DEVELOPMENT RIGHTS FOR HOMEOWNERS AND BUSINESSES: TECHNICAL CONSULTATION **IA No:** **Lead department or agency:** Department for Communities and Local Government **Other departments or agencies:**	**Impact Assessment (IA)** **Date:** 12 November 2012 **Stage:** Consultation **Source of intervention:** Domestic **Type of measure:** Secondary legislation **Contact for enquiries**: Helen Marks
Summary: Intervention and Options	**RPC Opinion:** N/A

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANCB on 2009 prices)	**In scope of One-In, One-Out?**	**Measure qualifies as**
			Yes	Out

What is the problem under consideration? Why is government intervention necessary?

The policy issue under consideration is whether the thresholds that govern the available permitted development rights for householder extensions and certain non-domestic extensions and new buildings could be increased for a limited period. This would allow more development to take place without the requirement for local authority planning permission and provide an incentive for developers to carry out works in the short term, rather than delay. There would be benefits for businesses who carry out development and businesses wishing to expand. There are also potential growth benefits where development takes place that would not otherwise have done so due to the requirement to obtain local authority planning permission.

Superfast broadband is key to boosting economic growth, increasing competitiveness and creating jobs. Accordingly, Government has allocated £530 million to help take superfast broadband to rural areas and is keen to incentivise greater roll out by easing the planning consideration of associated development.

What are the policy objectives and the intended effects?

- A boost for growth by incentivising developers to carry out work in the short term, rather than delaying, and where development takes place that would not otherwise have done so due to the requirement to obtain local authority planning permission.
- Benefits for businesses who carry out development and businesses wishing to expand. Business will no longer be required to prepare planning applications for certain development.
- Developers will make fee savings from no longer submitting planning applications.
- Reducing the need for local authority assessment of development with more limited impacts to allow them to concentrate on larger development of more strategic benefit to their local area.
- Fast track the roll out of superfast broadband.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

•Option 1 – do nothing: make no changes to permitted development rights.

•Option 2 – deregulate by increasing the permitted development thresholds for householder extensions and certain non-domestic extensions and new buildings. For broadband deployment, remove the requirement for prior approval for electronic communications apparatus in protected areas.

Will the policy be reviewed? Yes	**If applicable, set review date:**				
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	**Micro**	**< 20**	**Small**	**Medium**	**Large**
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:**	**Non-traded:** 0	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: ---------- Date: ----------

Evidence Base (for summary sheets)

The planning system provides a mechanism through which the impacts and external costs of development to third parties can be taken into consideration when new development is proposed. The planning system plays an important role in promoting the efficient use of land and considering and mitigating the adverse impacts that development can have on third parties. However, applying for planning permission places an administrative burden on business, estimated at around £1.1 billion in 2006.[16]

Where a development has little or limited adverse impact, or the impacts can be controlled in a way that does not require assessment of each individual proposal, the requirement to obtain planning permission can place burdens on business and others that are out of proportion with the potential impacts of the development.

The planning system aims to achieve proportionality by exercising different degrees of control over types of development with different degrees of impact. The requirement for local authority scrutiny of proposals with little or limited adverse impact is removed using permitted development rights. Permitted development rights are a deregulatory tool, established nationally, and use a general impacts-based approach to grant automatic planning permission for development that complies with limitations and conditions that are set out in the Parts to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995. The 1995 Order has been amended several times as new rights have been added or existing rights have been changed.

Policy issue under consideration and objectives

The policy issue under consideration is whether the thresholds that govern the available permitted development rights for householder extensions and certain non-domestic extensions and new buildings could be increased for a limited period. This would allow more development to take place without the requirement for local authority planning permission and provide an incentive for developers to carry out works in the short term, rather than delay. There would be benefits for businesses who carry out development and businesses wishing to expand. There are also potential growth benefits where development takes place that would not otherwise have done so due to the requirement to obtain local authority planning permission.

Superfast broadband is key to boosting economic growth, increasing competitiveness and creating jobs. Government has a target to have the best superfast broadband in Europe by 2015. Accordingly, Government has allocated £530 million to help take superfast broadband to rural areas and and is keen to incentivise faster roll out by easing the planning consideration of associated development.

[16] http://www.communities.gov.uk/documents/corporate/pdf/regulation-burden.pdf

The relevant parts of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 that are being considered are:

- Part 1 (Development within the curtilage of a dwellinghouse)
- Part 8 (Industrial and warehouse development)
- Part 24 (Development by electronic communications code operators)
- Part 41 (Office buildings)
- Part 42 (Shops or catering, financial or professional services establishments)

The policy objective is to deregulate by removing more development from the requirement for detailed local authority assessment of proposals by increasing the permitted development thresholds for householder extensions and certain non-domestic extensions and new buildings for a three year period. In addition, for broadband deployment, the objective is to remove the requirement for prior approval for electronic communications apparatus in protected areas, excluding Sites of Special Scientific Interest, for a period of five years. These policies are deregulatory measures.

The intended effects of the proposal are to reduce the burden of the planning system on homeowners and business, and boost growth. Specific effects include:

- A boost for growth by incentivising developers to carry out work in the short term, rather than delaying, and where development takes place that would not otherwise have done so due to the requirement to obtain local authority planning permission.
- Benefits for businesses who carry out development and businesses wishing to expand. Business will no longer be required to prepare planning applications for certain development. Business will also make fee savings from no longer submitting planning applications.
- Reducing the need for local authority assessment of development with more limited impacts to allow them to concentrate on larger development of more strategic benefit to their local area.
- Fast tracking the roll out of superfast broadband.

Current position

Presently, development that exceeds the existing thresholds set out in the relevant part of the Order is likely to require an application for planning permission, with an associated fee and other costs payable by the applicant. The requirement for planning permission can be seen as one of the disincentives to undertake development, particularly at the margins where the perceived benefits of the development are relatively low.

Options for change

Two options are considered.

Option 1 – do nothing: make no changes to permitted development rights.

Option 2 – deregulate by increasing the permitted development thresholds for householder extensions and certain non- domestic extensions and new buildings. For broadband deployment, remove the requirement for prior approval for electronic communications apparatus in protected areas. The detailed proposals are:

Householder extensions (Part 1)
At present, the permitted development rights in Part 1 allow single-storey rear extensions (including conservatories) of 4m depth from the rear wall for a detached house, and 3m for any other type of house. We propose that outside of protected areas (such as conservation areas, National Parks, Areas of Outstanding Natural Beauty and Sites of Special Scientific Interest) these thresholds should be extended to 8m for a detached house, and 6m for any other type of house for a three year period. Other limitations and conditions in Part 1 would still apply to reduce the risk of adverse impacts on neighbouring properties and the wider area. This includes requirements on the height of development. The feasibility of making it easier to convert garages to habitable accommodation is also being explored.

Extensions to shops and financial/professional services establishments (Part 42)
Shops and financial/professional services establishments are currently able to extend their premises by up to 50m^2, provided that this does not increase the gross floor space of the original building by more than 25%, and provided that the extension is no higher than 4m. We propose that outside of protected areas, these limits should be raised to 100m^2 and 50% for a three year period. We also propose that they should be able to build up to the boundary of the premises, except where the boundary is with a residential property. Other limitations and conditions would still apply.

Office extensions (Part 41)
Offices are currently able to extend their premises by up to 50m^2, provided that this does not increase the gross floor space of the original building by more than 25%, and subject to various other limitations. We propose that outside of protected areas, these limits should be raised to 100m^2 and 50% for a three year period. Other limitations and conditions would still apply.

Industrial and warehouse buildings (Part 8)
At present, new industrial buildings or warehouses which are up to 100m^2 in size can be built within the curtilage of an existing industrial building or warehouse, provided that the floor space of the original building would not be exceeded by more than 25% in non-protected areas. We propose that in non-protected areas, these limits should be raised to 200m^2 and 50% for a three year period.

Development to facilitate the roll out of broadband (Part 24)
At present, under part 24 of the General Permitted Development Order, fixed broadband apparatus such as cabinets, telegraph poles, and overhead lines

have permitted development rights, which means they can be installed without the need to apply for planning permission. This is subject to a prior approval process on article 1(5) land which allows planning authorities to consider the siting and appearance of communications apparatus before development commences. These permitted development rights liberalise the planning system and allow for speedier deployment of communications infrastructure, although the prior approval process can create uncertainty for developers and prolong the time taken on installation. We propose to remove this prior approval requirement as it applies to article 1(5) land. This change will be for a period of five years.

Option 2 is preferred as it would meet the policy objectives outlined above.

Consultation

A consultation exercise will be used to test the appropriateness of the proposals and also identify whether that are further opportunities to deregulate in respect of garage conversions.

Sectors and groups affected

The main sectors and groups most likely to be affected by the proposal are:

- Home and business owners wishing to extend their property (particularly those who are encouraged to do so through reduced planning costs)
- Businesses that carry out development work on behalf of home and business owners wishing to extend their property
- Businesses that install broadband equipment
- Planning services/staff at local authorities who will determine fewer applications for planning permission
- Third parties who live or work in the vicinity of new development
- Society more widely is likely to benefit from economic growth and broadband rollout

Cost-Benefit Analysis

Option 1 - 'Do nothing' scenario

The planning application process would continue to apply for those who do not meet the thresholds to benefit from permitted development rights. Those wishing to develop outside existing thresholds would continue to pay planning fees and the administrative costs of making a planning application, and these

costs may deter development and the growth and other benefits associated with Option 2.

Option 2 – Changing the permitted development thresholds

In making the assessment of costs and benefits it is important to distinguish between:

(1) planning applications that would have happened under the 'do nothing' scenario and therefore benefit from administration and fee savings related to the application process; and

(2) those cases where development would not have occurred but for this policy change, i.e. where the economic costs imposed by the planning system were sufficient to prevent development at the margin.

We identify and describe all sources of costs and benefits below and have attempted to quantify these using illustrative scenarios wherever this is possible.

Costs and savings for householder applicants

Householder applicants who intended to develop before the changes, and meet the increased thresholds will save directly on the £150 cost of the planning application fee that will no longer apply as the development is permitted development. There will also be indirect savings on transaction costs such as professional fees, production of scaled drawings, time spent compiling and presenting information etc. The estimated total savings on the planning application process (including fee) is between £150 and £2470[17] depending on the level of information required to support the application. If the requirement to seek planning permission were removed these costs would no longer be incurred.

In the year ending March 2012[18] there were just under 195,000 decisions on 'householder development' applications. If we assume that 10-20% of these would fall within permitted development rights after the policy change, between 20,000 and 40,000 developments would no longer be subject to planning requirements. It should be noted that these figures represent a tentative estimate. It is likely that a proportion of the 195,000 decisions involved applications for development within a National Park or conservation area etc, and these developments will be unaffected by the policy changes proposed.

Under this illustrative scenario – between 10% and 20% of existing householder developments no longer require an application – the saving to applicants might range between £5m and £100m annually.

[17] Based on ARUP benchmarking work in http://www.communities.gov.uk/documents/planningandbuilding/pdf/benchmarkingcostsapplication.pdf

[18] DCLG live table P124.

There will be further benefit from householders who were previously deterred from development by the cost of preparation and submission of a planning application. Householders may now choose to develop their homes. It is not possible to estimate the number of applicants that are currently deterred from making changes to their homes because of the economic costs the planning system imposes.

Table 1 shows a range of construction output that may result from this additional development based on construction cost, floor area and illustrative take-up assumptions.

Table 1: Construction Output (illustrative)

	Additional Extensions	Unit Floor Area (sqm)	Construction Cost (per sqm)[19]	Construction Output
Low	10,000	40	£750	£300,000,000
High	20,000	40	£750	£600,000,000

Under these illustrative scenarios, the additional annual construction output ranges between £300m and £600m.

Costs and savings for business and other organisations wishing to carry out development under Parts 8, 41 and 42 to Schedule 2 of the Town and Country Planning Order 1995, and meeting the increased size thresholds

Businesses and other organisations intending to develop (that would have done so in the absence of permitted development rights) but also now meeting the increased thresholds will make direct fee savings from submitting a reduced number of planning applications being required. They will also save on the associated transaction costs such as professional fees, production of scaled drawings, time spent compiling and presenting information etc. If the requirement to seek planning permission were removed these costs would no longer be incurred.

In 2011/12 there were 9,600 planning applications for minor development in 'offices/research and development/light industry' and 'retail distribution and servicing' categories.[20] Only a proportion of these applications will be for extensions that will be covered by the proposed permitted development rights: if we assume that between 10% and 20% of these applications fall within permitted development rights following the proposed policy changes, between 960 and 1,920 developments will no longer be subject to planning requirements.

[19] Based on an assumed construction cost in a range of £500- £1000 per sqm.
[20] DCLG (2006) Householder Consents - Survey of Applicants: http://www.communities.gov.uk/documents/planningandbuilding/pdf/151327.pdf

In 2011/12 there were 2,200 applications for minor development in 'general industry/storage/warehouse' categories.[21] Once again, only a proportion of these will be covered by the proposed permitted development rights: assuming that 10-20% of these applications will be covered by permitted development rights under the proposed policy changes, then between 220 and 440 developments will no longer be subject to planning requirements.

The administration and fee savings on the above applications will vary depending on the size. Given that these applications are for business premises, the cost savings from no longer preparing (time and resource) and submitting (fees) are likely to accrue to business. Table 2 shows the application savings based on the illustrative scenarios set out above.

Table 2: Application administrative and fee savings

		Applications	Fee	Annual Saving
Office / Research and Development / Light Industry	Low	960	£170[22]	£163,200
	High	1,920	£2,540	£4,876,800
General Industry / Storage / Warehouse	Low	220	£3,500[23]	£770,000
	High	440	£3,500	£1,540,000

As before, there is likely to some additional economic activity as a result of development that would not otherwise have come forward due to the perceived cost of the planning system. It is not possible to estimate the number of business applicants that are currently deterred from development because of the economic costs the planning system imposes.

Table 3 shows the additional construction output under illustrative scenarios for additional development. These are based upon assumed floor area and construction costs.

Table 3: Construction output (illustrative)

	Additional Extensions	Unit Floor Area (sqm)	Construction Cost (per sqm)[24]	Construction Output
Low	500	200	£1,250	£125,000,000
High	1,000	200	£1,250	£250,000,000

Under these illustrative scenarios, the additional annual construction output ranges between £125m and £250m.

[21] DCLG (2006) Householder Consents - Survey of Applicants: http://www.communities.gov.uk/documents/planningandbuilding/pdf/151327.pdf

[22] Based on Arup (2009) and the costs for dwelling house extensions, it is estimated that planning process costs are in a range between £170 and £2540.

[23] Arup (2009) estimate the costs of preparing and submitting a warehouse development range between £3,500 and £36,500.[23] This cost is based on developments of under 1,000m² so applications for under 100m² are likely to be at the lowest end of the range.

[24] Based on an assumed construction cost range between £1000 and £1500 per sqm.

Development to facilitate the roll out of broadband
Firms seeking to make installations as part of the roll out of superfast broadband in protected areas, for example Areas of Outstanding Natural Beauty, conservation areas, heritage sites etc, but not including Sites of Special Scientific Interest, for a limited period of five years will no longer be required to engage in a lengthy prior approval process. As a result there will be direct administration savings. Arup (2009) estimate the costs of preparing a submitting a prior approval application ranges between £1,410 and £4,335[25].

Businesses are also likely to benefit from access to superfast broadband.

Construction businesses
Businesses which carry out construction work are also likely to benefit from increased economic activity.

Costs and benefits for local authorities
Local authorities will benefit from a reduced number of planning applications, freeing up resources to be employed elsewhere. However, they will also now not receive the fee income associated with having to assess the planning applications that they previously would have received, which is designed to cover the full costs of determining the planning application.

There may be an increased number of enquiries by homeowners and their neighbours relating to whether new development meets the conditions laid out in the permitted development rights. This could impose some administrative costs on local planning authorities in terms of dealing with these queries. However, even in the absence of these permitted development rights, the local planning authority would receive pre-application enquiries regarding their policies and their views of development proposals. It is therefore considered that the permitted development rights would result in a transfer of resources from dealing with planning application queries to permitted development rights' queries that will broadly net out overall.

Costs and benefits to neighbours and communities
Third parties living and working close to new development that proceeds under permitted development rights at the higher thresholds may consider that amenity has been unduly impacted on as a result of the proposals. This could be, for example, due to perceived harmful visual impact or loss of light resulting from the development.

It is proposed to minimise this risk by maintaining appropriate limitations and conditions that will need to be met for the permitted development rights to apply. Other non-planning related protections will also still apply, including the Party Wall Act and the 'right to light'.

[25] Arup (2009) Benchmarking the cost of submitting a planning application: http://www.communities.gov.uk/documents/planningandbuilding/pdf/benchmarkingcostsapplication.pdf

If, in exceptional circumstances, it is clearly demonstrated that the permitted development rights are materially harmful in a particular locality, local authorities are able to consult with their communities on using an Article 4 direction to withdraw the rights. Removal of the rights in these exceptional circumstances allows all the potential planning impacts of the development to be considered locally by requiring planning applications.

Communities may benefit from increased economic activity in their area. Construction work supports local employment in trades such as building and plumbing, as well as the businesses that provide materials to them and others in the supply chain. For example, every additional £1m of output in housing repairs and maintenance supports around 30 jobs (in gross terms).

Impact on small firms
There may be positive impacts for small firms wishing to expand their premises or involved in the construction business. In addition small firms involved in the supply chains of these firms could benefit.

Rural proofing
The proposals for householder and business extensions will not apply in protected areas, including National Parks and Areas of Outstanding Beauty. As these landscape designations are generally rural areas, the policy has the potential to exclude home and business owners in these areas. There is a need to strike an appropriate balance between deregulating and maintain appropriate protections, particularly in those sensitive areas where tighter controls are needed as development can have a disproportionate impact on the quality and character of the natural and built landscape.

Effective, reliable and fast communications are vital for the economic prosperity and social sustainability of rural England. The proposals to facilitate the roll out of superfast broadband will boost growth in rural areas, and has the potential to make services more accessible to rural communities.

Implementation
If these proposals are adopted, an amendment will be made to the Town and Country Planning (General Permitted Development) Order 1995.

Monitoring
The proposed extensions to homeowner and business permitted development rights are a temporary measure for three years. A light touch review of the policy will be undertaken towards the end of this period to establish how best to proceed. Similarly, a light touch review of the broadband changes will be undertaken towards the end of the five year period.