

Supporting Housing Delivery & Public Service Infrastructure

About this Consultation

This consultation document and consultation process have been planned to adhere to the consultation principles issued by the Cabinet Office.

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 data, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation 2016, and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. 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 Ministry of Housing, Communities and Local Government will process your personal data in accordance with the law and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. A full privacy notice is included on the next page.

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.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

Please confirm you have read this page. *

Yes	X
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Privacy Notice

The following is to explain your rights and give you the information you are be entitled to under the data protection legislation.

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the data controller and contact details of our Data Protection Officer

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at dataprotection@communities.gov.uk.

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

Article 6(1)(e) of the General Data Protection Regulation 2016 (GDPR) provides that processing shall be lawful if processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.

Section 8(d) of the Data Protection Act 2018 further provides that this shall include processing of personal data that is necessary for the exercise of a function of the Crown, a Minister of the Crown or a government department.

The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Ministry of Housing, Communities and Local Government. The task is consulting on departmental policies or proposals or obtaining opinion data in order to develop good effective government policies in relation to planning.

4. With whom we will be sharing your personal data

We will not share your personal data with organisations outside of MHCLG without contacting you for your permission first.

5. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for 2 years from the closure of the consultation

6. Your rights, e.g. access, rectification, erasure

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have all or some of your data deleted or corrected
- d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

7. Storage of your personal data

We are using SmartSurvey to collect data for this consultation, so your information will be stored on their UK-based servers in the first instance. Your data will not be sent overseas. We have taken all necessary precautions to ensure that your data protection rights are not compromised by our use of third-party software.

If your submit information to this consultation using our third-party survey provider, it will be

moved to our secure government IT systems within six months of the consultation closing date (28 January 2021).

8. Your personal data will not be used for any automated decision making.

Please confirm you have read this page. *

Yes	<input checked="" type="checkbox"/>
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Respondent Details

This section of the survey asks for information about you and, if applicable, your organisation.

First name *

Matt

Last name *

Thomson

Email address

mthomson@chilternsaonb.org

Are you responding on behalf of an organisation or as an individual? *

Organisation	<input checked="" type="checkbox"/>
Individual	<input type="checkbox"/>

Organisation (if applicable)

Chilterns Conservation Board

Position in organisation (if applicable)

Planner

Please indicate whether you are replying to this consultation as a: *

Developer	<input type="checkbox"/>
Planning consultant	<input type="checkbox"/>
Construction company or builder	<input type="checkbox"/>
Local authority	<input type="checkbox"/>
Statutory consultee	<input type="checkbox"/>
Professional organisation	<input type="checkbox"/>
Lawyer	<input type="checkbox"/>
Charity or voluntary organisation	<input type="checkbox"/>
Town Council	<input type="checkbox"/>
Parish Council	<input type="checkbox"/>
Community group, including residents' associations	<input type="checkbox"/>
Private individual	<input type="checkbox"/>
Other (please specify):	<input checked="" type="checkbox"/>

AONB conservation board	
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Please indicate which sectors you work in / with (tick all that apply): *

Education section	
Health sector	
Prison sector	
None of the above	X

Supporting housing delivery through a new national permitted development right for the change of use from the Commercial, Business and Service use class to residential

Q1 Do you agree that there should be no size limit on the buildings that could benefit from the new permitted development right to change use from Commercial, Business and Service (Class E) to residential (C3)?

Agree	
Disagree	X
Don't know	

Please give your reasons:

This is an odd question to start the consultation with, rather than “Do you agree with the principle of the proposed new permitted development right (etc.)?”.

The issue of the size of buildings is problematic. When considering application of the new right to larger buildings, the issue may be less one of scale, but of suitability for conversion to create a reasonable living environment for residents. While it may be both desirable and straightforward to convert an attractive mid-century office building to apartments, the same may not be said for a supermarket, sports hall or laboratory, although all of these are included in the proposed permitted development right. There may be a temptation for some developers to convert under permitted development rights rather than pursue a planning application, with the result that a large, unattractive or otherwise out-of-place building is retained, with a sub-par environment for residents, when a redevelopment of the site might be more appropriate. It may be appropriate to include within matters to be resolved through prior approval an assessment of whether the building is suitable for conversion, or whether redevelopment might be a preferable option.

The impact of this would be greater for larger buildings, and this is of general concern. From the perspective of the Chilterns Conservation Board, while it is currently proposed that this right would not apply within AONBs (etc.), there are examples of large commercial buildings on the edge of the Chilterns AONB and within its setting, where the character and scenic beauty of the AONB (and its setting) could be considerably enhanced through the demolition of such buildings and their replacement with something more appropriate to the character of the area.

Given that the stated objective of this proposal is to support housing delivery, it is surprising that there is no consideration within the proposed permitted development right seeking to optimise the gain in the numbers of homes provided (balanced of course with the amenity of future residents), let alone to ensure that these homes are affordable for local people in housing need. This is potentially deeply problematic in rural areas, where house prices are higher but wages are lower than average, and where there is already an increasing tendency for the construction of larger homes to be privileged by housebuilders over the provision of affordable homes to meet local needs. A struggling privatised sports centre on the edge of a market town or village would make a fantastic proposition as a weekend retreat for a health-obsessed businessperson, for example. The proposed right offers no means for communities to make the best use of buildings to meet their housing needs.

Defining an appropriate size limit through a nationally imposed permitted development right would be difficult, as different limits may be appropriate in different areas. This issue goes to the heart of why a planning system based on local determination (whether through the current

discretionary local plan-led system or a system based more on zoning and coding) is always superior to one based on central directions.

It would be more appropriate, and effective, as an alternative to a blanket centrally-imposed permitted development right, to offer a model development order that communities could apply to areas or sites through local or neighbourhood development orders, with options for criteria within those orders, such as size limits. Such model orders could benefit from status as being pre-approved by government, enabling their application to be fast-tracked locally.

Q2.1 Do you agree that the right should not apply in areas of outstanding natural beauty, the Broads, National Parks, areas specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981, and World Heritage Sites?

Agree	
Disagree	
Don't know	X

Please give your reasons:

The Chilterns Conservation Board strongly supports AONBs and other protected areas being excluded from this proposed permitted development right.

However, consideration should also be given to excluding market towns and villages on the edges of protected areas from the permitted development right, as local economies are closely interlinked.

In addition, as part of the rationalisation of permitted development rights which the consultation document implies will be beneficial both to developers and local communities, other, similar, permitted development rights that are currently applied in AONBs (etc), and their settings, should be reviewed. This could help with a more seamless transition to the simplified approach to protected areas proposed in *Planning for the future*.

It is essential that communities in and around protected areas such as AONBs have discretion over the development (including reasonable means of managing changes of use) of properties in their areas. The demand for homes (including second homes and holiday accommodation) is insatiable in protected landscapes, meaning that the value of residential property far outstrips that of premises necessary for economic activity to prosper. It is essential that the economic vitality of communities within protected landscapes can be maintained and that means allowing for communities to use the planning system to manage the balance between homes, commercial premises and community facilities. It is also the case that communities within protected areas rely strongly on premises outside of those areas to support their local economies.

The demand for homes (including second and holiday homes) in market towns and villages on the edge of the Chilterns AONB, but outside its boundaries (like Henley-on-Thames, Wendover and Tring), is still significant enough that the application of this permitted development right in such communities could result in the loss of much needed, flexible and often relatively low-rent commercial premises, causing irreversible harm to the economy of the Chilterns area, and the same is obviously true for other AONBs. In recent years we have already witnessed an accelerating rate of loss of commercial premises in such communities under the existing planning system as a result of housing development being privileged over other development needs by policies like para 121 of the NPPF.

Arguably the same can be said to apply in many other areas not covered by the exclusions to the proposed permitted development right. In particular, the promotion and management of vital and viable high streets, particularly in villages and market towns, depends on communities' ability to manage those areas properly. While it is recognised that changing consumer behaviour

may lead to a reduction in the capacity of some high streets and town centres, the proposed permitted development right offers no scope whatsoever for communities to manage this, and is likely to result in high streets becoming fragmented, reducing their attractiveness to visitors, and hence their vitality and future resilience. The permitted development right could fatally undermine efforts to plan for resilient high streets supported by other government initiatives such as neighbourhood plans and MHCLG's own Future High Streets programme.

It would be more appropriate, and effective, as an alternative to a blanket centrally-imposed permitted development right, to offer a model development order that communities could apply to areas or sites, including less vital parts of their high streets, through local or (preferably) neighbourhood development orders. Such model orders could benefit from status as being pre-approved by government, enabling their application to be fast-tracked locally. Where applied specifically to parts of high streets, and with sufficient safeguards, including being genuinely led by the local community, such orders might be appropriate in market towns and villages "washed over" by designations such as an AONB.

Q2.2 Do you agree that the right should apply in conservation areas?

Agree	
Disagree	X
Don't know	

Please give your reasons:

It is not clear from the consultation document whether the intention is that the application of the permitted development right in conservation areas would outweigh the exclusion applied to AONBs and other protected areas. For the avoidance of doubt, the Chilterns Conservation Board would definitely not agree with the proposed new right applying in conservation areas within an AONB.

As set out in our response to Q2.1, we would also have concerns about the new right applying in market towns and villages in the setting of an AONB, whether or not there is a conservation area.

On the whole, the application of the proposed new right to conservation areas may be inappropriate, since the change of use of commercial premises (including in parts of properties other than the ground floor street frontage) to residential use could irreversibly alter the character of many conservation areas. Furthermore, the proposed right could encourage the conversion, and hence extend the lifespan, of properties in conservation areas that do not contribute to the character of the area, and which it would be preferable to demolish and replace with a more sensitive design.

The proposed right is a fundamentally different proposition to the existing change of use between different types of commercial use, which will often be acceptable and where the economic benefits of doing so are recognised, although even that requires some safeguards. In conservation areas it is all the more important to empower communities to sensitively manage the use of premises through the planning system, and help to transition a historic area sensitively if there is surplus commercial capacity. This permitted development right could fatally undermine efforts to plan for resilient high streets supported by other government initiatives such as Historic England's High Street Heritage Action Zones.

It would be more appropriate, and effective, as an alternative to a blanket centrally-imposed permitted development right, to offer a model development order that communities could apply to areas or sites, including parts of conservation areas, through local or (preferably) neighbourhood development orders, which are designed to reflect the specific character of those areas. Such

model orders could benefit from status as being pre-approved by government, enabling their application to be fast-tracked locally.

Q2.3 Do you agree that, in conservation areas only, the right should allow for prior approval of the impact of the loss of ground floor use to residential?

Agree	
Disagree	X
Don't know	

Please give your reasons:

See our response to Q2.2 with regard to the question of whether the right would apply to conservation areas within AONBs. The Chilterns Conservation Board would not agree with the right applying in AONB conservation areas. We have concerns about the right applying in any conservation area, as set out also in Q2.2.

If the right is to be applied in conservation areas, then the impact of the change of use on the character of the conservation area should be a matter for prior approval (consideration might also be given to extending this requirement beyond just ground floor uses in circumstances where the character of upper floors is important to the conservation area). Care needs to be taken with regard to the application of the prior approval in that the issue at hand concerns impacts on the character of the conservation area, rather than other impacts, and that these impacts may be felt not just through the design or appearance of the building, but how it is used, including intangible impacts on the vitality of the whole area.

Q3.1 Do you agree that in managing the impact of the proposal, the matters set out in paragraph 21 of the consultation document should be considered in a prior approval?

Agree	X
Disagree	
Don't know	

Please give your reasons:

Notwithstanding our general concerns about the application of the proposed permitted development right as a whole, if it is implemented, the Chilterns Conservation Board has no reason to consider that any of the matters set out in paragraph 21 should not be considered in a prior approval, and would support their inclusion.

Q3.2 Are there any other planning matters that should be considered?

Yes	X
No	
Don't know	

Please specify:

Notwithstanding our general concerns about the application of the proposed permitted development right as a whole, if it is implemented, in line with our response to Qs 1 and 2.1-2.2,

the Chilterns Conservation Board suggests that the prior approval process should also consider the following:

1. Whether the size and nature of the building lends itself to being suitable for conversion, or whether a more satisfactory outcome for both future residents and the character, appearance or sensible functioning of the area might be brought about by redevelopment. This consideration would be particularly important in conservation areas and in the setting of both conservation areas and other article 2(3) land, including AONBs.

2. Wider social and economic impacts. It is not evident from the consultation document how impacts of the loss of commercial premises on local economies will be considered or mitigated. For example, there is no redundancy or marketing test included in the proposal or in the list of matters for prior approval. In most places, residential use commands higher sales or rental prices than any commercial use, so the response of owners or landlords of any commercial premises will be to seek to convert to residential, or at least massively increase commercial rents, as has already been seen with regard to the existing office to residential rights. In many areas, especially market towns and villages, the loss of flexible and affordable commercial premises could have a devastating impact on local economies, which are often characterised by marginal small businesses and low wages. Furthermore, there are other development needs, especially for social and community infrastructure, to which redundant commercial premises could be put, often in preference to unrestricted residential uses. For this reason, the Chilterns Conservation Board recommends that the prior approval process should consider the social and/or economic impacts of conversion to housing, and that there should be a test for the redundancy of premises, such as an appropriate time in which premises have been marketed in their current use or for other uses for which there is an identified local need.

Q4.1 Do you agree that the proposed new permitted development right to change use from Commercial, Business and Service (Class E) to residential (C3) should attract a fee per dwellinghouse?

Agree	
Disagree	
Don't know	X

Please give your reasons:

The Chilterns Conservation Board certainly agrees that a fee should be payable to support local authorities in processing applications for prior approval. We are concerned that even a small fee per dwelling may encourage proposals for fewer homes, thereby contributing to the increasing proliferation of larger, less affordable homes. It may be more appropriate to link the fee to the size of the existing building, e.g. in terms of existing floorspace.

Q4.2 If you agree there should be a fee per dwelling house, should this be set at £96 per dwellinghouse?

Yes	
No	
Don't know	X

Please give your reasons:

The Chilterns Conservation Board has no basis on which to advise on an appropriate level for the fee, but agree that it should be consistent with other similar applications. If the suggestion made in our response to Q4.1 is accepted, then the fee could be calculated on the basis of the potential number of homes of a suitable size that could be accommodated in the building's existing floorspace.

Q5 Do you have any other comments on the proposed right for the change of use from Commercial, Business and Service use class to residential?

Yes	X
No	

Please specify:

While the Chilterns Conservation Board is supportive of the government's objective to explore innovative ways to increase the delivery of housing, we are strongly of the view that permitted development rights do not offer the most effective means by which to achieve this objective.

As noted in para 10 of the consultation document, changes of use through permitted development have only resulted in 72,687 new homes in 5 years – less than 5% of the government's ambition for annual housing delivery. The consultation document also notes that much of what has been delivered under permitted development rights has been of very poor quality. The additional safeguards so far suggested to address this issue are inadequate to the task, as they only really address the issue of natural light, and not all the other concerns relating to outdoor amenity space, parking, relationship with unneighbourly uses, affordability, undermining community aspirations, etc.

The vast majority of quality, affordable homes that offer places in which people want to live are delivered through the existing, traditional planning process. The government's proposals for a system based more on (locally led) zoning and coding, as set out in the Planning White Paper (subject to certain adjustments, as set out in our response to that consultation) could also deliver quality, affordable homes. Permitted development rights cannot achieve the same outcomes, at least not without complex layers of additional safeguards that negate the supposed benefits of "streamlining" consent processes that are the objective of the proposal. Evidence (presented by the Local Government Association, and in the government's own review of housing build-out (the Letwin Review)) suggests that it is not a lack of planning consents that is holding back the delivery of homes, but other factors more related to economics, such as market absorption rates and the process of land trading, none of which are resolved by permitted development rights.

As set out in response to other questions, the Chilterns Conservation Board strongly welcomes the fact that the proposed right is not currently intended to apply within AONBs and other protected areas, but remains deeply concerned about the impact that the right could have on the proper planning of communities on the edge of and in the setting of the Chilterns AONB.

We have particular concerns about the impacts the right will have on the affordability of commercial premises to rent or buy in such locations, because the value of residential properties in and around AONBs is significantly higher than in the same counties outside AONBs (in the Chilterns the uplift is between 60 and 75%). Increases in commercial values as a result will inevitably have knock-on effects on affordability within the AONB, regardless of the right applying there. This will be to the detriment of the economy of the Chilterns AONB.

We strongly recommend that government rolls back its programme of permitted development rights intended to support the delivery of housing. There is a role for development orders,

however, and the focus should instead be turned to drawing up model local and neighbourhood development orders that can be fast-tracked through the system by communities and applied to specific areas in which change would be beneficial to them, for example in managing the contraction of a high street. Where genuinely locally-led, such approaches might even be applied in sensitive areas like AONBs.

Q6.1 Do you think that the proposed right for the change of use from the Commercial, Business and Service use class to residential could impact on businesses, communities, or local planning authorities?

Yes	X
No	
Don't know	

If so, please give your reasons:

As noted in several of our responses to questions above, the proposed right could fatally undermine communities' ability to manage the balance of homes with commercial premises and social/community infrastructure, with particular conflicts with other government priorities, including neighbourhood planning and initiatives to promote the vitality and viability of high streets, as well as wider social and economic goals, particularly in rural areas.

The proposed right includes no safeguards that would:

- Encourage the provision of smaller homes (for new households and for older people to downsize into) which are objectively the types of homes for which there is the greatest demand.
- Ensure the provision of homes that are affordable to local people.
- Encourage the redevelopment of existing buildings that are out of place in their locality.
- Ensure the provision of adequate amenity space, waste disposal arrangements (which are different for residential properties than commercial) or car or cycle parking for residents and visitors (commercial premises will often rely on public car parks that may not be appropriate for residential uses).

All of these issues will put additional pressures on local authorities and could result in conflicts between the new residential use and existing neighbouring commercial uses. These pressures/conflicts would normally be resolved satisfactorily through a full planning application.

Q6.2 Do you think that the proposed right for the change of use from the Commercial, Business and Service use class to residential could give rise to any impacts on people who share a protected characteristic?

Yes	
No	
Don't know	X

If so, please give your reasons:

The Chilterns Conservation Board has no evidence or other basis to form a view on this question.

Supporting public service infrastructure through the planning system

Q7.1 Do you agree that the right for schools, colleges and universities, and hospitals be amended to allow for development which is not greater than 25% of the footprint, or up to 250 square metres of the current buildings on the site at the time the legislation is brought into force, whichever is the larger?

Agree	
Disagree	X
Don't know	

Please give your reasons:

While the Chilterns Conservation Board is supportive of the principle of giving greater flexibility to the development of public service infrastructure, especially under the current circumstances, we are concerned about the lack of safeguards applying in article 2(3) land, including AONBs. This concern applies as much to the existing right under part M as the proposed expanded right.

In our experience, the owners or operators of many public service infrastructure facilities (including both public and private bodies) are unaware of, or pay little attention to, their duty under s.85 of the Countryside and Rights of Way Act 2000 to “have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty”. The result is that public infrastructure developments rarely conserve, let alone take opportunities to enhance, the AONB, especially when resources for such infrastructure are stretched.

The Chilterns Conservation Board, which has a duty to promote the protection and enhancement of the AONB, has no powers to ensure that such developments do protect and enhance the AONB (indeed we have little influence even with a full planning application), other than recourse through the courts, which is not a practicable proposition.

Furthermore, s.85 of the CRoW Act does not even apply to all of the owners and operators of facilities to which this permitted development right applies (for example, universities, private/public schools and privately-run prisons are not included in the definition of “statutory undertakers”). Since these bodies are not subject to the s.85 duty, there is not even the option of legal action if their developments permitted by part M or the proposed amended right cause harm to (or fail to enhance) the AONB.

The current right under part M only requires that the extension or alteration is constructed “using materials which have a similar external appearance” to either existing buildings on the site or the specific building being altered (conditions M2(c) and (d)).

There are no safeguards concerning ancillary matters such as boundary treatments, lighting or landscaping, all of which can have a significant detrimental impact on the character of the surrounding AONB. Furthermore, the requirement to match existing buildings could result in the replication of development that is already out of character with the surrounding area, and the conditions do not allow for the use of materials that are more appropriate to the character of the area, which is perverse.

For the above reasons, the Chilterns Conservation Board strongly recommends that, in making the proposed amendment to part M, the permitted development right is permanently excluded from applying in article 2(3) land.

We would instead recommend an amendment to the online planning practice guidance giving an interpretation of para 172 of the NPPF that is favourable to limited expansion of public service infrastructure subject to safeguards around design, lighting, landscaping, etc., and would be happy to work with MHCLG officials on the wording of such an amendment.

If the right is retained in article 2(3) land, then the conditions need to be considerably tightened up to refer to building materials, design, lighting, landscaping etc. being consistent with any adopted design guidance for the area, and perhaps linking that to a prior approval process seeking sign-off from an appropriate body (e.g., in the case of an AONB, the conservation board, partnership or equivalent).

Furthermore, the Chilterns Conservation Board has concerns about the application of the existing and proposed rights adjacent to or in the setting of an AONB. Such infrastructure is often large, and is likely to include intrusive elements such as lighting that can have an impact on an AONB (or other article 2(3) land), even at some distance. Owners or operators of such infrastructure should be encouraged to consider such impacts. Permitted development rights do not offer much scope for this, and amending the conditions in the right to require such consideration may not be a proportionate solution. It may be appropriate to include a consideration of such impacts through prior approval matters.

Q7.2 Do you agree that the right be amended to allow the height limit to be raised from 5 metres to 6?

Agree	
Disagree	X
Don't know	

Please give your reasons:

Please see our response to Q7.2. Within article 2(3) land the additional 1m (plus rooftop installations, including lighting) could make a critical difference.

Q7.3 Is there any evidence to support an increase above 6 metres?

Yes	
No	X
Don't know	

Please specify:

Definitely not within article 2(3) land.

Q7.4 Do you agree that prisons should benefit from the same right to expand or add additional buildings?

Agree	
Disagree	
Don't know	X

Please give your reasons:

The Chilterns Conservation Board has no particular basis for considering that prisons should be treated differently from any other public service infrastructure, in that they too must be required to have due regard to the protection and enhancement of AONBs in the design of any extension or alteration.

For clarity, the fact that prisons are more likely to comprise intrusive security walls/fences, lighting, and probably alarms/sirens, all of which could have negative impacts on the scenic beauty and tranquillity of an AONB suggests that such facilities should not benefit from permitted development rights within AONBs or their setting, even if other forms of infrastructure are.

Q8 Do you have any other comments about the permitted development rights for schools, colleges, universities, hospitals and prisons?

Yes	
No	X

Please specify:

Q9.1 Do you think that the proposed amendments to the right in relation to schools, colleges and universities, and hospitals could impact on businesses, communities, or local planning authorities?

Yes	
No	
Don't know	X

If so, please give your reasons:

The Chilterns Conservation Board is very conscious that schools, colleges, universities and hospitals are (or can be) essential components of the economic and social well-being of communities, including those within AONBs. The objectives sought through the right are therefore considered mostly to have benefits for local businesses, communities and planning authorities. However, those benefits must be balanced with the desirability of protecting and enhancing the AONB, and, in an AONB (and arguably its setting) this is best achieved through strategic planning and development management processes, perhaps in the context of a positive policy towards such infrastructure, rather than through permitted development rights.

Q9.2 Do you think that the proposed amendments to the right in relation to schools, colleges and universities, and hospitals, could give rise to any impacts on people who share a protected characteristic?

Yes	
No	

Don't know	X
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If so, please give your reasons:

The Chilterns Conservation Board has no evidence or other basis to form a view on this question.

Q10.1 Do you think that the proposed amendment to allow prisons to benefit from the right could impact on businesses, communities, or local planning authorities?

Yes	X
No	
Don't know	

If so, please give your reasons:

The Chilterns Conservation Board is conscious of the importance of excellent quality and secure prisons to communities and the nation as a whole. We do not, however, consider that AONBs are necessarily the ideal location for such infrastructure, and may detract from the environmental, social and economic characteristics associated with such areas. Allowing the expansion of such facilities through permitted development rights could therefore be harmful to the well-being of businesses and communities within AONBs. That is not to say that an existing prison in an AONB could not expand with the careful attention to detail afforded by normal strategic planning and development management processes.

Q10.2 Do you think that the proposed amendment in respect of prisons could give rise to any impacts on people who share a protected characteristic?

Yes	
No	
Don't know	X

If so, please give your reasons:

The Chilterns Conservation Board has no evidence or other basis to form a view on this question.

Q11 Do you agree that the new public service application process, as set out in paragraphs 43 and 44 of the consultation document, should only apply to major development (which are not EIA developments)?

Yes	
No	X

Please give your reasons:

The Chilterns Conservation Board has serious concerns about this proposal because the definition of "major development" in AONBs (and National Parks) is, under footnote 55 of the NPPF, a matter to be determined by the decision maker. The current proposal makes no reference to this exception to the normal understanding of "major development".

We do not believe that the proposed “fast-track” approach is appropriate for development of any scale in an AONB (or National Park) and would suggest that if the approach is adopted, then it should not apply to applications on or adjacent to article 2(3) land.

Q12 Do you agree the modified process should apply to hospitals, schools and further education colleges, and prisons, young offenders' institutions, and other criminal justice accommodation?

Yes	
No	X

If not, please give your reasons as well as any suggested alternatives:

Please see our answer to Q11.

Q13 Do you agree the determination period for applications falling within the scope of the modified process should be reduced to 10 weeks?

Yes	
No	X

Please give your reasons:

Please see our answer to Q11.

Q14 Do you agree the minimum consultation / publicity period should be reduced to 14 days?

Yes	
No	X

Please give your reasons:

Please see our answer to Q11.

Q15 Do you agree the Secretary of State should be notified when a valid planning application is first submitted to a local planning authority and when the authority anticipates making a decision? (We propose that this notification should take place no later than 8 weeks after the application is validated by the planning authority.)

Yes	
No	X

Please give your reasons:

Please see our answer to Q11.

Q16 Do you agree that the policy in paragraph 94 of the NPPF should be extended to require local planning authorities to engage proactively to resolve key planning issues of other public service infrastructure projects before applications are submitted?

Yes	
No	X

Please give your reasons:

The onus to engage proactively to resolve issues should not be on the decision maker, but on the developer. Local authorities have a role, but ultimately if key planning issues cannot be resolved by the developer changing their proposal to make it acceptable in planning terms, then the application should always be refused.

Q17.1 Do you have any comments on the other matters set out in the consultation document, including post-permission matters, guidance and planning fees?

Yes	
No	X

Please specify:

Q17.2 Do you have any other suggestions on how these priority public service infrastructure projects should be prioritised within the planning system?

Yes	X
No	

Please specify:

The promoters of priority public service infrastructure projects should be subject to duties that require them to draw up proposals that are acceptable in planning terms, including working constructively through strategic planning processes (i.e. local plans) and responding proactively to community concerns, including demonstrating that they have had regard to, for example, the desirability of protecting and enhancing the natural beauty of AONBs, in line with section 85 of the Countryside and Rights of Way Act 2000, even if the promoters are not themselves public bodies, statutory undertakers, etc.

The way to a swift and successful planning permission should always be to work with local and national planning policy and legislation (and community aspirations), rather than being allowed to find a way around them.

Q18 Do you think that the proposed amendments to the planning applications process for public service infrastructure projects could give rise to any impacts on people who share a protected characteristic?

Yes	
No	
Don't know	X

If so, please give your reasons:

The Chilterns Conservation Board has no evidence or other basis to form a view on this question.

Consolidation and simplification of existing permitted development rights

Q19.1 Do you agree with the broad approach to be applied to the review and update of existing permitted development rights in respect of categories 1, 2 and 3 outlined in paragraph 76 of the consultation document?

Agree	
Disagree	
Don't know	X

Please give your reasons:

See our answer to Q22.

Q19.2 Are there any additional issues that we should consider?

Yes	X
No	

Please specify:

See our answer to Q22.

Q20 Do you agree think that uses, such as betting shops and pay day loan shops, that are currently able to change use to a use now within the Commercial, Business and Service use class should be able to change use to any use within that class?

Agree	
Disagree	
Don't know	X

Please give your reasons:

See our answer to Q22.

Q21 Do you agree the broad approach to be applied in respect of category 4 outlined in paragraph 76 of the consultation document?

Agree	
Disagree	
Don't know	X

Please give your reasons:

See our answer to Q22.

Q22 Do you have any other comments about the consolidation and simplification of existing permitted development rights?

Yes	X
No	

Please specify:

There is a very clear direction of travel set out in the Planning White Paper that a different approach to planning is required in areas where significant development ("growth") or regeneration ("renewal") are considered acceptable as opposed to areas where development needs to be carefully managed ("protected areas").

In that context, there is far greater scope for approaches that we currently consider to be "permitted development", including defined changes of use, extension, alterations and even large-scale development or re-development, preferably governed by design codes.

In protected areas, such as AONBs, however, the more discretionary approach is much more effective. In such areas it is very difficult to define permitted development rights (or even design codes) that are responsive enough to matters of local distinctiveness in order to protect erosion of the qualities that made the area worth designating in the first place. Developments that take place under such rights or codes are often harmful, even when they meet a carefully defined set of criteria, because codes and rights are blunt instruments. On the other hand, the discretionary approach can often enable developments to happen that are beneficial (or at least not harmful) to the area, but which would not have been acceptable under the application of a right or code.

The Chilterns Conservation Board strongly recommends that the process of consolidating and simplifying existing permitted development rights has at its heart an additional criterion which asks whether any right being considered that currently applies in an AONB (or other article 2(3) land) would be better excluded from those areas. In many cases it will be easier to simplify and consolidate rights if the impact of developments on article 2(3) interests did not need to be considered in those rights.

An additional benefit would be that returning more types of development in article 2(3) land to be considered by normal planning applications (or permitted through genuinely locally-led local or neighbourhood development orders) would enable public bodies, communities, local planning authorities, National Park Authorities and AONB bodies to better satisfy their duties with regard to the protection and enhancement of such areas, in line with government commitments to the environment, including heritage protection and nature recovery.

End of survey

You have reached the end of the consultation questions. Thank you for taking the time to complete them and for sharing your views. Please note that you will not receive an automated email to confirm that your response has been submitted.

After the consultation closes on 28 January 2021 we will consider the responses we have received and publish a response, in due course.