

Epsom Civic Society

formerly Epsom Protection Society

shaping the future, safeguarding the past

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Public Service and Permitted Development Consultation
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To Whom It May Concern

Government Consultation: Public Service and Permitted Development Consultation – Responses from Epsom Civic Society

About Epsom Civic Society

Epsom Civic Society was founded in 1959 as Epsom Protection Society, at a time when many historic and architecturally valuable buildings and houses in Epsom and Ewell were being threatened by developers. Then, our primary role was to halt the destruction of Epsom's heritage and to ensure that new development was compatible with the traditional character of the town. In 2011, our name was changed to Epsom Civic Society. Our purpose continues to be to protect the heritage of Epsom and to encourage high standards of new planning and building; but the change of name reflects the wider concerns of the Society to promote civic pride and to inspire progressive improvement in the quality of local life for everyone. The Society is an **unincorporated association** with an executive committee and a constitution that requires us to prepare accounts and hold an annual general meeting. We have over 1800 members. The Society is a founder member of Civic Voice, the national charity for the civic movement in England, and shares common aims with other civic societies.

Responses are submitted on the Society's behalf by our Chair, Margaret Hollins, following consultation with and input from the Society's planning sub-committee members.



Preliminary observations on this consultation

Overview

The proposals set out in the **Planning for the Future** consultation document, referred to in this consultation, prompted a wide range of concerns from Epsom Civic Society and others, which questioned both the basis and practicality of the reforms. These have not as yet been responded to by the Government.

It therefore seems **premature to plough on with changes** as set out in this current consultation which are, as with the earlier consultation:

- **thinly researched** in terms of evidence of the nature and cause of problems
- **failing to consider the wider context** in terms of the role of town centres, the lack of resources within local authorities to speed up the planning process, the shortage of funding for public sector building projects
- **excluding local people** from planning approval decisions in their own areas
- **an almost 'Soviet style' centralisation** of control towards national government which does not sit well in terms of either efficiency or effectiveness.

More specifically

Impact Assessments

There is a lack of rigorous analysis in the document as it is thinly researched in terms of **evidence** of the nature and cause of problems it seeks to address. None of the proposals has a rigorous, costed impact assessment. Indications that impact assessments will be carried out later in the process (eg prior to secondary legislation) do not help consultees assess the strengths and weaknesses of the proposals being consulted on. **Without impact assessments, why are these proposals being consulted on?** (Qs 6.1, 6.2, 9.1, 9.2, 10.1, 10.2, 18, 19.2 refer.)

Proposed new national permitted development right (PDR): Housing Delivery and Town Centres

The change of use proposal **does not consider the wider context** in terms of the role of town centres - local planning authorities will not be able to stop the 'hollowing out' of shopping centres as town centre retail properties are converted to residential use in an **unplanned and random way** with developers using 'permitted development rights'. High streets are under pressure – these changes will make it even harder for the remaining shops and hospitality venues in a 'place' to attract the volume of customers needed to be a viable group of businesses. (Qs 1, 3.2,5 refer.)

The 72,687 new homes created in last 5 years (paragraph 10) by conversion of commercial property represents less than 4.85% of the target number of new homes required every 5 years (=72,687/1,500,000 x 100). How many of them were social housing? This is not a major opportunity,

and certainly not a reason for eliminating altogether the concept of 'planning for place' to secure a balanced mix in any location of retail, office and residential occupation.

The **logic of the proposal** is that every Class E premise occupied by a failing business (in a high street, town centre or elsewhere) should immediately be converted (at a possibly significant profit to the owner) to residential use, **regardless** of its suitability for purpose, local context, existing local planning policies, zoning, availability of infrastructure required to support residential use (especially outdoor amenity space) or conservation/heritage setting considerations. This **would be rationally considered** as **almost universally undesirable**. Nor is it the case that "sustainable development" can always occur on the sites of Class E premises, especially those in flood risk zones, adjacent to nature reserves or industrial premises.

The justification for allowing change of use from commercial, business and service use class to residential use is the main focus of the consultation yet **the proposal hardly attempts to set out its case**. There is no recognition of the role of town centres in providing a focus for retail activity and hospitality industries. While the consultation recognises the challenges such business areas are facing at this current time (in terms of internet shopping and the pandemic), instead of setting out options to support the continued survival or revival of the town centre, it effectively further undermines its future.

Once ground floor shopping centre properties are converted into residential units, there is little prospect of further change of use for a long period. The more residential properties in a town centre there are at street level, the less attractive the centre is to other retailers as there is less critical mass of retail or hospitality activity to draw people in.

Rural villages and towns have long suffered from the disappearance of such outlets (such as bakeries, pubs, post offices, banks) which rarely return - so that they become more isolated, residential only locations. **This careless proposal to undermine the viability of town centres will similarly 'empty out' further shops from shopping centres.**

Speeding up the planning decision process for public sector building projects

The consultation fails to consider the significance of, and key obstacles to, accelerating the planning timescales, in terms of:

- the delays in relation to planning **compared to other causes of delay** in public building projects
- the **lack of resources within local authorities** to speed up the planning process (given 10 years of austerity, a year of the pandemic, and the future likely adverse consequences of Brexit on public finances)
- the **uncertain availability of funds** for public sector building projects. (Qs 13, 14,17.2).

Excluding local people and businesses from planning processes

The proposals exclude local people from planning approval decisions in their own areas by giving both developers and, additionally in this consultation, large public service institutions the ability, through permitted development rights, to both expand and undertake new build with little to no reference to the impact on others in their locale (paragraph 43, Q8).

Central government surveillance of local planning functions

There is a consistent theme running through the Ministry's thinking that planning should mainly be done at national level, rather than as originally conceived through Local Planning Authorities. As a general principle of business management, decisions should always be taken as close to the customer as possible: by extension, in a democracy, decisions should be made as close to the local populace/electors as possible, the principle claimed by the EU as subsidiarity, **however little the EU observes it in practice. Epsom Civic Society believes absolutely in local democracy and is dismayed by the extent to which the present government is undermining this principle.**

Creeping 'Soviet style' centralisation of control by national government (Q15) (eg notifying the Secretary of State when a valid planning application is first submitted to a local authority) does not sit well in terms of either efficiency or effectiveness (nor the liberal democratic tradition of this country).

Equally, the Conservative party claims to believe in less government not more, leaving more of the decision-making, money and expenditure control to individuals and local government. But behaviour in the last decade has shown it to be more interested in central control and ever more interference from Whitehall in local affairs. Please can we get back to reducing the size of the statute book, reducing Whitehall expenditure, and increasing responsibilities and control to local government bodies?

The Society's responses to specific questions start on the next page.

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)?

Response: We do not agree with the premise of this question, since it implies that the proposed new permitted development right (PDR) Class E to C3 is a good thing. We disagree. **We believe this PDR is wrong in principle and undermines completely the role of the LPA in place development.** See also our response to Q5. **If**, however, the right were to be adopted, then there must be a size limit. **If** it were created, it should apply only to premises that would create 9 or fewer new homes.

Agree	
Disagree	✓
Don't know	

Please give your reasons:

The consultation **does not ask** whether consultees agree with the proposal to change of use from commercial etc to residential without requiring planning permission. This is an odd omission as this is the **core change** being proposed. **This consultee opposes the core change** as it will: undermine the viability of town centres by diminishing the concentration of shopping centres; give shoppers from surrounding areas fewer reasons to visit town centres; create a knock-on effect of making the town centre less attractive to other retailers as well as reducing the sites available for retail or hospitality use.

Those **local authorities** that have, through their planning activities, carefully curated town centres over many years to encourage independent, locally based retailers **will find their work on behalf of local communities undermined**. The proposal looks carelessly thought out and presented in an off-hand way.

In relation to the Q1 proposal to put no limit on building size that could be subject to the new permitted development right, again this proposal seems careless in the extreme. **One of the key lessons of the pandemic is that access for residents to external green space and adequate internal space is vital**. Allowing conversion of office blocks, of any size, into residential units without consideration of issues required by the planning application process therefore risks ignoring a key lesson of the pandemic.

Similarly, the lessons from the Grenfell tower fire indicate **a more safety-first approach should dominate thinking when looking at occupation of tall buildings**. A 'no size limit' on change of use from commercial etc to residential sends out the wrong message to developers that such lessons do not need to be learnt - whereas everything we hear from the Grenfell inquiry indicates the opposite is true ie that there are many major lessons to be learnt.

It is not clear from the consultation document as to how a 'prior approval' process would compare to the planning applications process and whether it would enable local people to register their views on change of use in the same way – and that these views would carry equal weight to what they do now.

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?

Response: Yes, agree.

Agree	✓
Disagree	
Don't know	

Please give your reasons:

Yes: clearly, we need to conserve such areas and protect them from unmanaged and inappropriate development which would otherwise be allowed under the right.

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

Response: No, disagree.

Agree	
Disagree	✓
Don't know	

Please give your reasons:

No: Conservation Areas need protection from unmanaged and inappropriate development so the right should not apply in these areas. Unless there is due consideration of local planning policies and other material planning considerations and controls, **Conservation Area designations and protections risk being undermined by the right**, and likewise heritage assets such as Listed Buildings that are frequently located in Conservation Areas. Proposals (paragraphs 18 and 19) that the right will *not* apply to Listed Buildings but *will* apply in Conservation Areas, fail to acknowledge that CAs frequently host Listed Buildings whose integrity and settings could consequently be compromised by exercise of the right. Properties “situated within or adjacent to a Conservation Area” should stay exempted from the right.

Conservation Areas, even in town centres, **are vital tools of place development** and exist to prevent developments inappropriate by virtue of both use class and architecture. Allowing such conversions in town centres where off-street parking cannot adequately be provided renders any converted homes less practical and desirable to prospective occupiers. The quantity of homes likely to be generated in town centre CAs is so small as to be not worth the risk of loss of retail and employment space in town

centres. Outside town centres, the risk of loss of amenity to surrounding residents through inappropriate developments is just as great.

More widely **areas should not be subject to developments that override local planning controls and community wishes.**

The first sentence of paragraph 18 of the consultation document states, *'In certain areas it may be appropriate to allow for individual local consideration of such development.'* This sentence reveals a remarkably authoritarian and centralising mindset of behalf of government. Surely **the default should be for decisions to be led by local considerations** rather than only exceptional cases to merit local input.

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?

Response: Once again (see response to Q1) **we do not agree with the premise of this question** and predicated on our response to Q2.2 above where we do not agree that the right should apply in Conservation Areas, we do **not** want this right to be exercised in conservation areas **at all**. If the right were to apply in Conservation Areas, then we would support the requirement for prior approval **as a minimum. Hence our agreement is qualified significantly.**

Please give your reasons:

This mitigating action, ie the prior approval procedure, would still be a **second best** to just applying the usual planning application processes, that would seek to ensure, eg the retention of active frontages.

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?

Response: The list of matters in paragraph 21 that should be taken into account appear to be the **bare minimum** that should be considered in **all** cases. These matters are important but the prior approval process takes **too narrow a view** of how to assess a scheme and is in our opinion a **poor and redundant substitute** for the current planning application process.

Please give your reasons:

All the matters in paragraph 21 can and should be considered properly via a planning application under the current arrangements.

Prior approval:

- creates an **unnecessary second mechanism and process** for the LPA planners to have to operate
- **encourages sub-optimal conversions** because of its limited assessment criteria regarding

delivery of **good quality** housing (see also responses to Q3.2)

- fails to **fully** consider the **suitability of the existing building for residential** purposes (see also responses to Q3.2)
- carries an extremely high risk of an **unsuitable end product** with ‘cutting corners’
- requires planners to have a wider skills and knowledge base, eg in civil engineering, to assess suitability for purpose
- fails to acknowledge necessary building checks, eg for asbestos, deployment of sustainable materials / sustainable energy systems.

Our concerns are supported by the **Government’s own commissioned report, ‘Research into the quality standard of homes delivered through change of use permitted development rights’** (2020) regarding the previous extension of development rights permitting office to residential conversions which **concluded that permitted development rights create ‘worse quality residential environments’**. The current proposal **risks proliferation of ‘worse quality residential environments’** by creating a new permitted development right. The **matters listed** in the prior approval process are **inadequate as a comprehensive quality assurance mechanism**.

Far better to have **no prior approvals** but let the LPA’s create local plans with local rules and then operate them through planning applications. The limited list of prior approval matters will not necessarily secure a high-quality residential environment for the occupants or create the vibrant, diverse, and planned centres communities want.

Most of the planning problems currently affecting our **local** planning authority stem from constraints and policies imposed by the Ministry itself via the NPPF and the Standard Methodology. **Most of the housing shortage problems locally stem from two factors**: first, the lack of available building land due to Green Belt and other constraints and the fact that the available urban environment is 95% built out already; and secondly the acute shortage of social housing and funding to provide it in the face of competition from the private sector wanting to build spacious accommodation for sale at maximum profit or other accommodation where they claim any contribution to affordable housing is financially unviable.

Consequently, **the utility of these proposals locally to support good placemaking and meaningful housing delivery is extremely limited**.

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

Response: Yes.

Yes	✓
No	
Don't know	

Please specify:

- Design, appearance, and materials
- Impact of the loss of ground floor use and ‘active frontage’ to residential
- Accessibility and adaptability – Lifetime Homes – HAPPI Principles
- Quality and safety of base building
- Energy efficiency – Future Homes Standard
- Compatibility with Net Zero targets
- Air quality
- Impact on heritage assets
- Supporting town centres. This is vital: changing commercial, business and service use to residential use should take account of the likely medium to longer term impact on town centres’ viability. Converting retail and hospitality venues to residential uses in town centres eventually diminishes the critical mass of shops and venues that people will come to visit, and this drives down the trading opportunities for the remaining ‘people facing’ businesses – leading to increased bankruptcies and economic decline. [There is a parallel with the consequences of not replacing council house stock sold to tenants with new social housing: eventually the numbers of homeless people increase.]
- Delivering sustainable communities and supporting ‘15-minute neighbourhoods’ with access to a range of facilities, goods and services, parks and open spaces for all ages and abilities. This consideration must be taken into account in supporting delivery of the Sustainable Development Goals through the planning system.

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?

Response: Don’t know.

Agree	
Disagree	
Don't know	✓

Please give your reasons:

Does the current fee per dwelling house for prior approval incentivise developers to provide



proposals to planners that cover all necessary information and result in residential units that meet residents' reasonable expectations? If not, what fee would be sufficient? This proposal fails to adequately explain the rationale behind the fee and does not explain what costs it is intended to cover.

The proposal to cap the fee at the cost of the fee for 50 properties provides a small but unhelpful incentive for the developer to cram more units into a development, reducing the quality of the accommodation for prospective residents.

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

Response: Don't know.

Yes	
No	
Don't know	✓

Please give your reasons:

Does the current fee per dwelling house for prior approval incentivise developers to provide proposals to planners that cover all necessary information and result in residential units that meet residents' reasonable expectations? If not, what fee would be sufficient? This proposal fails to adequately explain the rationale behind the fee and does not explain what costs it is intended to cover.

The proposal to cap the fee at the cost of the fee for 50 properties provides a small but unhelpful incentive for the developer to cram more units into a development, reducing the quality of the accommodation for prospective residents.

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?

Response: Yes.

Yes	✓
No	

Please specify:

In summary, the proposal for change of use from commercial, business and service to residential

- is **premature** given major concerns with Planning for the Future proposals have not been addressed

- is **thinly justified**, lacking robust evidence and argumentation
- **fails to consider likely negative medium to longer term impacts on town centres** from the loss of ground floor retail and hospitality venues to residential use
- **fails to consider the lessons from the pandemic and Grenfell** in terms of proposing **no limits** on building size
- **fails to protect conservation areas adequately** from the new proposed right to change of use
- **fails to explain how a process of prior approval provides sufficient protection for local interests** and whether prior approval provides local people with opportunities to be involved in planning decisions that matches their current access
- **fails to take account of the loss of external aesthetics and building legibility, hence incompatible with the findings of the Building Better Building Beautiful Report** (January 2020)
- **does not adequately explain the rationale for fees** for the new permitted development rights
- **does not give consultees an opportunity to challenge the main proposal in the logical sequence of the consultation document** ie consultee views on change of use from commercial etc to residential should be question 1 instead of only a proportion of consultees picking this point up as part of a catch all 'any other comments' here in question 5.
- **is at variance with, and potentially undermines, other policy initiatives**, eg Business Investment Districts, promoting vibrant and viable town centres, delivering well-designed, sustainable places
- **is at variance with the aims of new Class E (1/9/2020)** which needs time to bed-in.

Epsom Civic Society objects to the proposal in principle. Good placemaking is not exclusively about housing: communities need more than housing to thrive.

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?

Response: 'Lost for words' at this question, but 'yes'. Please see below.

If so, please give your reasons:

The consultation document mentions, repeatedly, that the government has a responsibility to have regard to the potential impact of any proposal on the Public Sector Equality Duty. It does not, however, provide any meaningful assessment of the potential impact in each case and, instead, only

seeks consultees' views on whether there are any impacts.

This **failure to provide evidence-based impact assessments, that consultees can effectively respond to, means that the usefulness of the consultation is significantly undermined. If the government does not have the resources required to carry out impact assessments, then it should not be putting forward proposals for change until it can support those proposals with robust, data based and well-researched impact assessments.**

As stated in response to questions above – in particular questions 1 and 5 – **the proposals are likely to have negative effects on businesses in town centres** as increased numbers of ground floor residential properties will limit the space available for retail and hospitality outlets and reduce footfall in town centres thereby diminishing the viability of the town centre businesses overall. Fewer businesses and a more moribund town centre will have a **negative effect on community cohesion** with more isolation for individuals. **Local planning authorities' strategic and operational role** in helping to create and support vibrant town centres **will be undermined** by the proposed right.

The over-simplification and lack of supporting data and argumentation in the consultation document gives the impression that few, if any, current local authority planning officers input to the consultation process. This lack of real-world understanding is reflected in the **lack of rigour in the proposals put forward.**

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?

Response: Yes.

Yes	✓
No	
Don't know	

If so, please give your reasons:

It is worth stating clearly that **the absence** in the consultation document **of any analysis of the impact of the proposals on groups with protected characteristics is a major omission** and reflects poorly on the seriousness of the consultation process itself.

Paragraph 21 lists matters for local consideration through prior approval. Disappointingly it does not make any reference to people with protected characteristics. This is a good illustration of the **offhand and cursory nature of the consultation** in terms of taking its responsibilities for assessing the impact of its proposals on people with protected characteristics seriously. See also our responses to Qs 3.1, 3.2, 6.1.

It is suggested that before any further steps are taken in this consultation process that the

government:

- **engages with relevant protected characteristics, individuals, and representative groups**
- **undertakes fully costed and sourced analyses of the impacts of the proposals** on people in these groups
- **publishes these impact assessments** with a commentary on the consequences for the initial set of proposals.

Concluding comments on this section of the consultation: build council houses / social housing

Examination of actual housebuilding in England over the last 70 years shows quite conclusively that the **failure to meet most demand is in the provision of council houses**, ie social housing built and rented with a state subsidy. The shortage of such property, initially in council housing and more recently in Housing Association housing, stems from the “Right to Buy” provisions that benefit the sitting tenants to the detriment of those subsequently in need of subsidised accommodation.

It is also probably the case that the shortage of skilled building labour and building materials is being **exacerbated by the existing permitted development rights** regarding extensions, porches, loft extensions etc. Locally more building activity is being dedicated to such developments than building new homes. However desirable it may be to improve the existing housing stock for the benefit of its owners, all such activity detracts from the capacity to create new homes. This is just an example of the unintended consequences of Government policy over the last decade.

A much **better way of resolving the shortage of new homes** would be to address housing provision where the need is greatest, ie social housing. This can be achieved through policy allowing LPAs to give priority on all available sites to social housing and providing them with (a) a quick mechanism to requisition any suitable available brownfield site at current use value and (b) authority and funds (on loan terms or grant) to commission the building thereon of social housing of a type most appropriate to local needs.

This would have the **additional benefit of reducing substantially the current cost of temporary accommodation provision** and ensure that more of our overall house-building activity would meet a social need rather than create profit for the private property owner or developer.

In areas of housing shortage other than for social housing, lack of supply merely increases prices until supply equals demand. For those who can afford the price rises, this is an irritant (and merely reduces available spend on other goods and services). For those needing social housing, the price of new houses to buy at market price is irrelevant. Their only choice at present is to suffer in temporary accommodation (at considerable cost to the taxpayer) or move to a location where property prices are much lower and, probably, employment opportunities are scarcer.

Responses continue on the next page.



Supporting public service infrastructure through the planning system

Preliminary: source and data gaps on delay – questions and observations

- Where is the cross public sector data that demonstrates that, per paragraph 31: *‘...one of the key issues is securing planning permission for new hospitals, schools, further education colleges and prisons which can often take significant time leading to project delays and cost increases.’* ?
- Paragraph 42 refers to Ministry of Justice data re **prisons** but gives no source report and gives no data source for its overall assertion re delays for substantive public service developments.
- How do any delays in planning compare to **overall project timescales** and **other causes of delays** eg time to secure funding sources, effects of policy changes, time taken to make political choices between different site options? if the planning delay relative to these and other factors is comparatively small, then the impact of squeezing the time available for planning decisions will be limited.
- Adding process complexity to reduce planning time by 3 weeks out of a typical project life-cycle of 24-30 months requires justification. If it currently takes 8 months instead of 3 months on average, why is this? If it is due to the applicant having failed to provide at the outset much of the information needed for a formal planning assessment, perhaps the relevant Ministries should look at their procurement processes for getting planning permission in the first instance.
- As in housing, this looks like a **failure to complete root cause analysis as to what the real problem is**.

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?

Response: No, disagree.

Agree	
Disagree	✓
Don't know	

Please give your reasons:

No – this blanket rule, applied irrespective of local circumstances, will lead to large public sector sites, that may already be out of scale with surrounding local communities and buildings, becoming even larger - as the greater of 25% of existing site or 250 square metres can mean developments much larger than 250 square metres – with **little or no opportunity for local residents to have their views**

heard and no meaningful control over the external appearance of buildings.

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

Response: No, disagree.

Agree	
Disagree	✓

Please give your reasons:

No – once again, there is a consultation assumption that local involvement in decision making is wrong and that centralised rule making should trump local views. **The default should be for buildings to be on a human scale and not be overbearing on the surrounding communities.** Limits on building heights are a good example of this. Height limits **should be kept to 5 metres for both safety** considerations (bearing in mind lessons from the Grenfell Tower fire) **and aesthetic reasons** such as to match the local vernacular.

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

Response: No.

Yes	
No	✓
Don't know	

Please specify:

No – for the reasons stated above re question 7.2. ie there is a consultation assumption that local involvement in decision making is wrong and that centralised rule making should trump local views. **The default should be for buildings to be on a human scale and not be overbearing on the surrounding communities.** Limits on building heights are a good example of this. Height limits **should be kept to 5 metres for both safety** considerations (bearing in mind lessons from the Grenfell Tower fire) **and aesthetic reasons** such as to match the local vernacular. **Increasing heights above 6 metres just worsens the problem.**

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

Response: No, disagree.

Agree	
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Disagree	✓
Don't know	

Please give your reasons:

No – if it is not appropriate to relax rules on expansion of other public sector infrastructure buildings, then it is not right to relax the rules for expansion of prison buildings. A blanket rule, applied irrespective of local circumstances, will lead to large prison sites, that may already be out of scale with surrounding local communities and buildings, becoming even larger - as the greater of 25% of existing site or 250 square metres can mean developments much larger than 250 square metres – with **no opportunity for local residents to have their views heard.**

Larger prison sites have implications for local communities in terms of increased traffic (more prisoners and warders being transferred from and to the prison, more prisoners' families and other visitors to/from sites, more prisoners released from sites into the local community). These all have **significant implications for local communities and support services.**

In the wider context, UK already has one of the largest prison populations relative to total population in Western Europe. Planning policy for prison sites presumably should be driven by prison policy rather than the other way round?

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

Response: Yes.

Yes	✓
No	

Please specify:

The underlying principle should be that these public education, health and justice institutions **exist within local communities** – and the **local communities should therefore have the opportunity to input to decisions taken on the expansion of existing facilities** - and for **their views to be taken into account** in the decisions made.

The main impact of the proposed changes is to take away the public's opportunity to have their views registered and taken into account. The proposals do not appear to promote democratic involvement and should be re-considered.

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?

Response: Yes.

Yes	✓
No	

If so, please give your reasons:

The proposed amendments **clearly have an impact** on businesses, communities and local planning authorities in terms of **reducing their opportunity to input to decisions being taken that impact on them**. There is a very brief, notional consideration of some positive impacts in paragraphs 36 and 38 to 39 with no attempt to consider any adverse consequences. This is neither a robust nor a balanced assessment.

The reference in para 40 to **preparing an assessment at some later date** (prior to preparation of secondary legislation) **does not provide consultees with an adequate basis for responding to the consultation proposals in the current document**.

The consultation document effectively asks consultees to provide the assessment for the MHCLG!

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?

Response: Yes.

Yes	✓
No	
Don't know	

If so, please give your reasons:

The proposed amendments **clearly have an impact on persons with protected characteristics** in terms of **reducing their opportunity to input to decisions being taken that impact on them**. There is **no attempt in the consultation document to consider these impacts in a robust or balanced way**.

If there is no attempt to reflect both potential benefits and costs to people with protected characteristics, how can this be?

Either the impacts were assessed and found to have a net benefit or net cost, in which case why are they not set out in the consultation document, or the impacts were not assessed and so the proposals should not have been put forward until an assessment was carried out.

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?

Response: Yes.

Yes	✓
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No	
Don't know	

If so, please give your reasons:

The proposed amendments **clearly have an impact on businesses, communities and local planning authorities** in terms of **reducing their opportunity to input to decisions being taken that impact on them**. There is a very brief, notional consideration of some positive impacts in paragraphs 37 with no attempt to consider any adverse consequences. This is neither a robust nor a balanced assessment.

The reference in para 40 to **preparing an assessment at some later date** (prior to preparation of secondary legislation) **does not provide consultees with an adequate basis for responding to the consultation proposals in the current document**. The consultation document effectively asks consultees to provide the assessment for the MHCLG!

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?

Response: Yes.

Yes	✓
No	
Don't know	

If so, please give your reasons:

The proposed amendments **clearly have an impact on persons with protected characteristics** in terms of **reducing their opportunity to input to decisions being taken that impact on them**. There is **no attempt in the consultation document to consider these impacts in a robust or balanced way**.

There is no attempt to reflect both potential benefits and costs to people with protected characteristics. How can this be?

Either the impacts were assessed and found to have a net benefit or net cost, in which case why are they not set out in the consultation document, or the impacts were not assessed and so the proposals should not have been put forward until an assessment was carried out.

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)?

Response: Qualified, for the reasons set out below.

Yes	N/A
No	N/A

Please give your reasons:

The government runs **a risk in seeking to make planning decisions faster** for new public service developments **while claiming it wants to enable local communities to express their views**. **The shorter the time for the public to express their view** on planning proposals, **the greater the likelihood that, in practice, the public will be excluded**. This is the **opposite of localism and undermines it**.

Residents have lives to live that do not necessarily involve continual checking on the existence or status of planning applications. Once residents and others become aware of proposed developments they need time to find and consider the proposals and to discuss their implications with neighbours, friends, family and colleagues and to ask questions of the council. All these steps take time.

The proposal to give greater prioritisation to planning decisions in relation to key public service developments **needs to be seen in the context of the Planning for the Future document** (published 6 Aug 2020) which proposed **residential housing developments should be prioritised**. **Making more types of developments a priority**, especially where there is little or no indication of extra resources being made available to local Planning authorities, **results in nothing being a real priority**.

The consultation document text explaining these proposals is rather confused. There appear to be three categories which raise questions as set out below:

- Proposals **below** a size limit where there would be an 8-week determination – is this a new time limit?
- Proposals **above** the size limit **but less than the size of a development requiring an Environmental Impact Assessment (EIA)**. These would require a 10-week determination (?)
- Proposals **at or above the threshold for an EIA** to be carried out. Unclear what the determination period for this type of development will be. Retention of 13-week determination?

The proposals introduce undue variation without meaningful benefit:

- a 5 or 3 week saving on the development process is not worth the additional complexity
- limiting/excluding opportunities for local voices undermines localism and devalues local knowledge
- our preliminary comments in this section on source and data gaps on delay, and responses to Q 17.2 also refer.

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?

Response: No.

Yes	
No	✓

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

No. Concerns that the modified process **excludes input from local people to planning decisions** and **undermines localism**. See response to Q 11.

How does the modified process apply to **academies or independent schools** where some form of public monies could be involved in a form of partnership arrangement?

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

Response: No.

Yes	
No	✓

Please give your reasons:

Merely cutting the determination period to 10 weeks does not necessarily make the planning process work more effectively.

Paragraph 57: how will the MHCLG design and devise a **new planning application form** for developments that fall **outside** the scope of the modified process? Presumably, this process would be helped by getting local authority planning bodies to be involved in the design of the form.

Paragraph 59 – prioritisation of modified process applications has **resource implications for local planning authorities as well as for statutory consultees**. What actions are to be taken to recognise these additional costs on local planning authorities?

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

Response: No.

Yes	
No	✓

Please give your reasons:

No. **Where are the extra resources for local planning authorities** to carry out 'extensive prior engagement with the local community' so that the period for representations can be reduced from 21

days to 14 days?

In practice the likelihood is that reducing this period will result in more of the public being excluded from the consultation process. This undermines localism.

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.)

Response: No.

Yes	
No	✓

Please give your reasons:

No. This is a surprising proposal from a Conservative administration – it has the appearance of national level, **over centralised**, soviet style interference in local decisions - a sort of big brother monitoring of everything that happens at a local level on these applications. Surely the move should be towards decentralising the process, not centralising it.

Para 67 – proposes more national, centralised monitoring of local government planning performance! Where is the release of central control and the repair of the local democratic deficit?

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?

Response: No.

Yes	
No	✓

Please give your reasons:

Local planning authorities need more resources to carry out faster engagement with key delivery bodies and other stakeholders. It is **unclear that there is any intention to provide these resources** from central government. Local authorities are in, or on the verge of, financial crisis and do not have the resources.

In practice, no faster engagement will take place. Poorer decisions will be made. As we emphasised in our responses to the Planning for the Future consultation, quality takes time and cost.

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?

Response: Yes.

Yes	✓
No	

Please specify:

The proposals have the appearance of being ‘invented’ in a theoretical discussion between the authors - with **little or no consideration of the practicalities of implementation**, no reaching out to planning practitioners in local authorities.

Where is the practicality to these proposals? Rather than simplifying planning, the proposals are having the opposite effect by adding variations and further complexity without meaningful benefit. Limiting/excluding opportunities for local voices undermines localism and devalues local knowledge.

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

Response: Our suggestions are constrained for the reasons set out below.

Yes	✓
No	

Please specify:

In the consultation document there is **no serious attempt to gather data** to demonstrate

- the **scale** of any ‘delay’ problem for public service infrastructure
- the **causes** of any delays from first identifying a need for infrastructure to delivering the infrastructure to put any ‘planning delay’ in context
- the **scale of resources needed** to prioritise such infrastructure projects and **where these resources will come from** in an economy that has had:
 - 10 years of public sector austerity,
 - a year of a major pandemic
 - and is facing an existential shock from a thin deal Brexit.

Put in that context, the proposals appear, to a significant degree, to be unrealistic and unhelpful.

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?

Response: Yes.

Yes	✓
No	

If so, please give your reasons:

The proposed amendments **clearly have an impact on persons with protected characteristics** in terms of **reducing their opportunity to input to decisions being taken that impact on them**. There is **no attempt in the consultation document to consider these impacts in a robust or balanced way**.

It is insufficient for the consultation document to state that an assessment in relation to the Equality Act 2010 will be prepared at some later date.

If there is no attempt to reflect both potential benefits and costs to people with protected characteristics, how can this be?

Either the impacts were assessed and found to have a net benefit or net cost, in which case why are they not set out in the consultation document, or the impacts were not assessed and so the proposals should not have been put forward until an assessment was carried out.

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?

Response: Agree.

Agree	✓
Disagree	
Don't know	

Please give your reasons:

In view of recent legislative changes, the broad approach set out in paragraph 76, categories 1,2 and 3 for consolidation and simplification of existing permitted development rights is sensible and necessary.

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

Response: Absence of evidence / impact assessments prevents an effective response. Lack of evidence / impact assessments is a recurring issue in this consultation: see the preliminary observations in our letter and our responses to Qs 6.1, 6,2, 9.1, 9.2, 10.1, 10.2, 18.

Q20 Do you agree 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?

Response: Agree, provided the question is referring to the current scope and application of Class E.

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

Response: Agree.

Agree	✓
Disagree	
Don't know	

Please give your reasons:

In view of recent legislative changes, the broad approach set out in paragraph 76, for category 4 (rights requiring detailed consideration) for consolidation and simplification of existing permitted development rights is sensible. Any subsequent identification of issues and anomalies necessitating substantive change merits further consultation on the details.

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

Response: No.

This concludes the responses from Epsom Civic Society to this consultation.

Yours faithfully,
Margaret Hollins
Chair, Epsom Civic Society

