



Ministry of Housing,  
Communities &  
Local Government

# Planning Reform: Supporting the high street and increasing the delivery of new homes



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# Scope of the consultation

Topic of this consultation:	This consultation seeks any views on each part of a package of measures to make best use of land and speed up the delivery of new homes.
Scope of this consultation:	<p>This consultation covers separate proposals on:</p> <p><b>Part 1:</b> Permitted development rights and use classes  <b>Part 2:</b> Disposal of local authority land  <b>Part 3:</b> Canal &amp; River Trust: Draft listed building consent order  <b>Part 4:</b> New town development corporations: Draft compulsory purchase guidance</p> <p>Views are sought for each specific part and the relevant responses to each part will be considered in taking forward that particular proposal.</p>
Geographical scope:	These proposals relate to England only.
Impact Assessment:	The government is mindful of its responsibility to have regard to the potential impact of any proposal on the Public Sector Equality Duty. In each part of the consultation we would invite any views on the duty.

## Basic Information

To:	This consultation is open to everyone. We are keen to hear from a wide range of interested parties from across the public and private sectors, as well as from the general public.
Body/bodies responsible for the consultation:	Ministry of Housing, Communities and Local Government
Duration:	This consultation will run from 29 October 2018 to 14 January 2019.
Enquiries:	For any enquiries about the consultation please contact: <a href="mailto:planningconsultation2018@communities.gov.uk">planningconsultation2018@communities.gov.uk</a>
How to respond:	Responses are invited to each specific part or parts of the consultation: those specific responses will be considered by the government in taking forward the relevant policy proposals.

Consultation responses should be submitted by online survey at:

<https://www.surveymonkey.co.uk/r/PlanCon18>

We strongly encourage responses via the online survey, particularly from organisations with access to online facilities such as local authorities, representative bodies and businesses. Consultations on planning policy receive a high level of interest across many sectors. Using the online survey greatly assists our analysis of the responses, enabling more efficient and effective consideration of the issues raised for each question.

Should you be unable to respond via the online survey we ask that you complete the response pro forma found at <https://www.gov.uk/government/consultations/planning-reform-supporting-the-high-street-and-increasing-the-delivery-of-new-homes>. You may respond to one or more parts of the consultation. Responses should be emailed to: [planningconsultation2018@communities.gov.uk](mailto:planningconsultation2018@communities.gov.uk)

or posted to:

Planning Consultation  
Planning Development Management Division  
Ministry of Housing, Communities and Local Government  
3rd floor, North East  
Fry Building  
2 Marsham Street  
London  
SW1P 4DF

If you are responding in writing, please make it clear which questions you are responding to.

When you reply it would be very useful if you could confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:

- your name,
- your position (if applicable),
- the name of the organisation (if applicable),
- an address (including postcode),
- an email address, and
- a contact telephone number

If responding on behalf of an organisation, please highlight which group you represent:

**Local Authorities** (including National Parks, Broads Authority, the Greater London Authority and London Boroughs)

**Neighbourhood Planning Bodies / Parish or Town Council**

**Private Sector Organisations** (including housebuilders, housing associations, businesses, consultants)

**Trade Associations / Interest Groups / Voluntary or Charitable Organisations**

**Academia**

**Other**

# Foreword

The government is committed to ensuring the planning system supports the creation of new businesses and homes. It has a critical role to play in the future of our high streets and in underpinning the delivery of much needed new homes.

The revised National Planning Policy Framework<sup>1</sup>, published on 24 July 2018, sets out policies to ensure the vitality of our town centres by taking a positive approach to their growth, management and adaptation. The Framework will drive greater housing delivery where it is needed most and promote more efficient use of our land. With good design, protections for valued green spaces and community support, we can revitalise the high street, support business and deliver new homes.

The National Planning Policy Framework is a key element of our reforms. However, we wish to go further to give greater certainty and speed wherever possible.

We want to give local areas the opportunity to make the most effective use of existing buildings both for business and residential use. In doing so we can reduce the need to build in our valued countryside and green spaces, improve our streetscapes, and make our town centres more attractive.

We are now seeking views on further planning reforms. These reforms will support our high streets to meet the demands of the 21<sup>st</sup> century consumer and make the best use of land and buildings to deliver more homes.

A summary of each part of the consultation is provided below. Responses are invited to each specific part.

## **Part 1: Permitted development rights and use classes**

National permitted development rights play an important role in helping the high street adapt and meeting our housing aspiration. They provide developers with a more streamlined and certain route through the planning system while allowing for local consideration of key planning matters. We are seeking views on new permitted development rights to allow greater flexibility for change of use; use the airspace above existing buildings for additional new homes and extensions; remove the right to install new public call boxes and the associated advertising consent; and increase the height threshold for the installation of off-street electric vehicle charging points. We also propose to make permanent other existing time-limited rights, and to make an update to the Use Classes Order to reflect our changing high streets and make them more resilient.

## **Part 2: Disposal of local authority land**

There are well established consent procedures in place where local authorities seek to dispose of surplus land at less than best consideration. We are proposing to extend local authorities' freedoms to do so without seeking consent from the Secretary of State,

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<sup>1</sup> <https://www.gov.uk/government/collections/revised-national-planning-policy-framework>

thereby providing greater flexibility to dispose of surplus land in support of local development objectives.

### **Part 3: Canal & River Trust: Draft listed building consent order**

We are proposing to make the first listed building consent order which will allow minor, routine works to the Canal & River Trust's listed waterway structures without the need for individual listed building consent applications. This will remove unnecessary applications from the system while ensuring that appropriate protection for listed buildings and their settings is maintained.

### **Part 4: New town development corporations: Draft compulsory purchase guidance**

Finally, we are seeking views on draft guidance on the compulsory purchase powers of new town development corporations. It sets out, amongst other things, the factors which Ministers will take into account when deciding whether or not to confirm new town compulsory purchase orders. This is intended to provide additional clarity to those with an interest in proposed new settlements, including promoters, investors, infrastructure providers, landowners and local communities.



# Part 1. Permitted development rights and use classes

## Introduction

- 1.1 National permitted development rights play an important role in helping high streets adapt to changes in how people shop and use the high street. They allow for change of use between some uses typically found on the high street, as well as allowing some high street premises to change to residential use. Separately other permitted development rights also support the delivery of new homes. In 2016/17, permitted development rights provided nearly 18,900 new homes, 8.5% of the total number of net additions delivered. The proposals set out in this chapter seek to build on previous reforms to help high streets thrive and to create more new homes from existing buildings, including in our town centres.
- 1.2 Permitted development rights provide a more streamlined planning process with greater planning certainty, while at the same time allowing for local consideration of key planning matters. The individual permitted development rights<sup>2</sup> allow for a wide range of development, including for businesses, householders and statutory undertakers to extend their premises, change use and install infrastructure.
- 1.3 New permitted development rights for the change of use could support new businesses and encourage further diversity on the high street. Separately, the Use Classes Order<sup>3</sup> is a key deregulatory tool which provides for movement within similar uses without the need for planning permission. There is now scope to consider whether the use classes could better support high street regeneration in a changing retail environment.
- 1.4 In addition, we are proposing a new permitted development right to allow building up above existing buildings to promote new homes. This will bring particular benefits to town centres but also more widely where opportunities exist for well designed development in the airspace above buildings.
- 1.5 We are now seeking views on the following matters:
  - **Allow greater change of use to support high streets to adapt and diversify**  
We are proposing new permitted development rights to allow existing premises in typical high street uses to change to a wider range of uses, allowing more leisure and community uses such as gyms, libraries, health care and office use as well as

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<sup>2</sup> Permitted development rights are set out in The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.  
<http://www.legislation.gov.uk/ukxi/2015/596/contents/made>

<sup>3</sup> The Town and Country Planning (Use Classes) Order 1987, as amended.  
<http://www.legislation.gov.uk/ukxi/1987/764/contents/made>

homes. We also want to support the modernisation of the high street and enable businesses to adapt to changes in consumer demands. We are consulting on changes to use classes for uses commonly found on the high street to make it easier for certain uses to change use.

- **Allow certain building types in particular uses to extend upwards to create additional new homes**

We propose a new permitted development right to extend certain existing buildings upwards to provide additional, well designed, new homes to meet local housing need. National planning policy is clear that to support housing delivery we should make effective use of previously developed land and buildings, including the airspace above existing buildings, to create new homes. This proposal is to create much needed additional new homes which fit within the existing streetscape and can enhance the local area.

- **Remove the existing right that allows the installation of, and advertising on, new public call boxes**

Permitted development rights initially played an important role in helping to provide public access to a telephone. The widespread use of mobile technology has changed the way people access telephone services and use public call boxes. Therefore, the placing of public call boxes would now benefit from the greater consideration of their impact on the local amenity. Any adverts on new public call boxes would similarly be subject to local consideration.

- **Increased size limits for off-street electric vehicle charging points**

The Government's commitment is that by 2050 nearly all cars and vans should be zero emission vehicles. To support its delivery we propose to increase the existing size limits for electric vehicle charging points located in off-street parking areas to facilitate rapid charging.

- **Make permanent two time-limited rights**

We propose to make permanent two time-limited permitted development rights that will currently cease to have effect in 2019. These provide for the change of use from storage or distribution to residential use, and for larger single storey rear extensions to houses.

- **Explore the feasibility of a new right to allow for the demolition of existing commercial buildings and their redevelopment as residential**

The National Planning Policy Framework<sup>4</sup> is clear that making effective use of land and buildings is central to boosting housing delivery. Therefore we are seeking views on whether it would be feasible for a permitted development right to be designed that could allow for the redevelopment of a commercial site to create new homes.

### **Allow greater change of use to support high streets to adapt and diversify**

1.6 The government is committed to helping high streets adapt to meet the range of experiences consumers are demanding. High streets and town centres are already

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<sup>4</sup> <https://www.gov.uk/government/collections/revised-national-planning-policy-framework>

providing a wider range of leisure and community services and business uses alongside traditional high street shops and financial services. Permitted development rights for change from retail and other high street uses would provide a quicker more certain route to enable business to adapt and help town centres to remain vibrant.

1.7 To support greater diversity and footfall on the high street, we are proposing a new national permitted development right to allow shops (A1) financial and professional services (A2), hot food takeaways (A5), betting shops, pay day loan shop and launderettes to change to office use (B1). We are also proposing to allow hot food takeaways (A5) to change to residential use (C3), as is already the case with the other uses listed in this paragraph. We would welcome views on the benefit of this increased flexibility.

1.8 Permitted development rights for change from high street uses would be subject to prior approval by the local planning authority. We would expect this to be in line with existing change of use prior approvals but would be interested in views on what specific matters should be considered.

**Question 1.1:** Do you agree that there should be a new permitted development right to allow shops (A1) financial and professional services (A2), hot food takeaways (A5), betting shops, pay day loan shop and launderettes to change to office use (B1)? Please give your reasons.

**Question 1.2:** Do you agree that there should be a new permitted development right to allow hot food takeaways (A5) to change to residential use (C3)? Please give your reasons.

**Question 1.3:** Are there any specific matters that should be considered for prior approval to change to office use?

### **Temporary change of use**

1.9 We are also interested in views on greater flexibility for temporary and community uses on the high street. We are proposing to extend the existing permitted development right for the temporary change of use from shops (A1) financial and professional services (A2), restaurants and cafes (A3), hot food takeaways (A5), offices (B1), non-residential institutions (D1), assembly and leisure uses (D2), betting shops and pay day loan shops to change to shops (A1) financial and professional services (A2), restaurants and cafes (A3) or offices (B1). The current right allows premises to change use for up to 2 years, enabling new business start-ups to test the market and help ensure premises are not left empty. To further support flexibility, we propose that these premises should also be allowed to change to certain community uses: public library, exhibition hall, museum, clinic or health centre. In addition, to allow sufficient time to establish a business we propose to extend the period of the temporary use from 2 years to 3 years.

**Question 1.4:** Do you agree that the permitted development right for the temporary change of use of the premises listed in paragraph 1.9 should allow change to a public library, exhibition hall, museum, clinic or health centre?

**Question 1.5:** Are there other community uses to which temporary change of use should be allowed?

**Question 1.6:** Do you agree that the temporary change of use should be extended from 2 years to 3 years?

### **Support for the high street through the Use Classes Order**

- 1.10 Modern high streets need to be able to adapt quickly to meet the changing expectations of communities for a mix of shop and leisure uses, and to reflect new businesses that continue to emerge. With the rise of internet shopping, and the change in how people use the high street, it is timely to consider how the operation of the Use Classes Order can support greater flexibility. The Town and Country Planning (Use Classes) Order 1987, as amended, groups together uses that have similar land use impacts, and sets out that movement within a use class is not considered development and therefore does not need planning permission. Traditional high street uses are mostly found in the A classes: shops (A1), financial and professional services (A2), restaurants and cafes (A3), drinking establishments, including public houses (A4), and hot food takeaways (A5). Permitted development rights already allow for some changes of use between these classes, except for those where particular considerations should apply. Public houses (A4) play an important role in communities and permitted development rights were removed in 2017 to protect these important community assets. Recognising the potential impact on the local amenity, planning permission is required for the change of use to a hot food takeaway (A5).
- 1.11 The Use Classes Order must remain current for the modern high street. The A1 use class captures commonly found shops on the high street. However, we wish to explore whether we could simplify the A1 shops use class to remove the current named uses and allow for a broader definition of uses for the sale, display or service to visiting members of the public. We would welcome views on how the A1 use class could be simplified to ensure that it accommodates new and future business models and modern shopping preferences.
- 1.12 We could go further. Premises on the high street are often in more than one use, for example a bookshop and café, which allows them to attract a wider range of customers. There could be scope for a new use class that provides for a mix of uses within the A1, A2 and A3 uses beyond that which is considered to be ancillary, which would support the diversification of high street businesses. This would replace the existing A1, A2 and A3 and result in a single use class to cover shops, financial and professional services, restaurants and cafes. This would mean that movement between these uses was no longer development and not a matter for the planning system to consider. It would bring greater flexibility but reduce the ability of communities and local planning authorities to distinguish between shops and restaurant uses. We would be interested in views on merging these use classes, and also on whether any other use class should be brought into the proposed merged use class.

**Question 1.7:** Would changes to certain of the A use classes be helpful in supporting high streets?

**Question 1.8:** If so, which would be the most suitable approach:  
a. that the A1 use class should be simplified to ensure it captures current and future retail models; or,  
b. that the A1, A2 and A3 use classes should be merged to create a single use class?  
Please give your reasons.

### **A new permitted development right to support housing delivery by extending buildings upwards to create additional new homes**

1.13 Building upwards to use the airspace above existing buildings can play an important role in delivering new homes both in town centres and elsewhere. National planning policy<sup>5</sup> expects that local planning policies and decisions should respond positively to suitable opportunities to deliver additional new homes above existing residential and commercial premises. This policy offers an opportunity to bring forward well-designed homes which enhance the streetscape while making effective use of land for housing, boosting housing density in areas of high demand such as our town centres and high streets, increasing footfall and preventing unwanted garden-grabbing.

#### **Density in urban areas**

**A number of researchers and commentators are investigating how high quality residential development can be delivered at high densities in urban areas to create liveable and popular communities, and how these can be supported and developed through planning. Many reports note that some of the most densely populated areas of cities are some of the most desirable, that English urban areas are relatively low density by international standards, and that good design means that high density does not have to be the same as tall buildings.**

**Reports include Policy Exchange - *Better Brownfield*<sup>6</sup>, *Yes In My Back Yard - How To End The Housing Crisis*<sup>7</sup> and *Create Streets - Create Boulevards for London*<sup>8</sup>. The government welcomes this debate and encourages further analysis and examples of good practice.**

**Permitted development rights, as set out in this paper, could play a role in supporting higher density development, alongside national planning policy, local plans, local design codes and good masterplanning.**

1.14 We know that additional new homes are already being brought forward using the airspace above existing buildings and approved through the planning application process. There is now an opportunity to consider the introduction of a permitted development right to further support the creation of additional new homes above certain existing buildings in high streets and town centres. While the operation of

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<sup>5</sup> <https://www.gov.uk/government/collections/revised-national-planning-policy-framework>

<sup>6</sup> <https://policyexchange.org.uk/wp-content/uploads/2018/05/Better-Brownfield-LL.pdf>

<sup>7</sup> <https://static1.squarespace.com/static/56eddde762cd9413e151ac92/t/598c03c5be6594815d7741c5/>

<sup>8</sup> <http://dev.createstreets.com/wp-content/uploads/2017/09/Create-Boulevards-03-May-2016.pdf>

permitted development rights for change of use can sometimes raise local issues, the benefits of providing new homes, greater certainty and speeding up delivery have been recognised. The proposed right would not apply in Article 2(3) land (including conservation areas, areas of outstanding natural beauty, the Broads, National Parks and World Heritage Sites); sites of special scientific interest; listed buildings and land within their curtilage; sites that are or contain scheduled monuments; safety hazard areas; military explosives storage areas; and safeguarded land within 3 kilometres of the perimeter of an aerodrome.

- 1.15 We are proposing a new permitted development right, subject to prior approval by the local planning authority, to allow additional storeys to be built above certain buildings, in particular those in commercial or residential (C3) use. This would complement our existing policy approach which supports making the best use of airspace and increasing density. We are interested in innovative approaches to building up to deliver additional new self-contained homes, and would welcome examples of how this permitted development right might be used in practice, and particularly of how the use of local design codes could help to encourage take up of the proposed right and improve the design quality and acceptability of upward extensions.

**Question 1.9:** Do you think there is a role for a permitted development right to provide additional self-contained homes by extending certain premises upwards?

**Question 1.10:** Do you think there is a role for local design codes to improve outcomes from the application of the proposed right?

### Height limits

- 1.16 A permitted development right could apply to the airspace above premises in a terrace of two or more joined properties where there is at least one higher building in the terrace. The roof of the premises extending upward would be no higher than the main roofline of the highest building in the existing terrace. This would have the advantage of providing a fixed local point against which any proposal could be considered and offer greater certainty on what is permitted.
- 1.17 An alternative approach would be to permit upward extensions more widely to a height no higher than the prevailing roof height in the locality. While this may extend the proposed right to a greater number of properties, it would not be possible to define prevailing roofline in regulations. Therefore it would be a matter to be considered by the local authority as part of the prior approval. In doing so, the local authority would be able to define what it considered to be the prevailing roofline taking account of the local building types and heights and the extent of the area over which it should be determined. This may offer less certainty to the applicant. It would, however, offer a different range of development opportunities.
- 1.18 There are likely to be local amenity impacts to be considered when reviewing a proposal to construct additional storeys. Therefore it is proposed that there should be a maximum limit of 5 storeys from ground level for a building once extended, with anything higher requiring a planning application. This would be based on an additional storey not exceeding 3 metres in height.

1.19 Where premises are not on level ground the impact of adding additional storeys can be significantly greater on the amenity of neighbouring premises, for example from overlooking and overshadowing and on the character of the area. We would welcome views on how best to take account of the topography of specific areas.

1.20 Separately, purpose built, free standing blocks of flats (C3) over 5 storeys would provide an opportunity to deliver additional new homes through upwards extensions. The government would also like a permitted development right to apply to such buildings, and is interested in views, including whether there should be a limit on the number of additional storeys that could be added, for example 5.

**Question 1.11:** Which is the more suitable approach to a new permitted development right:

- a. that it allows premises to extend up to the roofline of the highest building in a terrace; or
- b. that it allows building up to the prevailing roof height in the locality?

**Question 1.12:** Do you agree that there should be an overall limit of no more than 5 storeys above ground level once extended?

**Question 1.13:** How do you think a permitted development right should address the impact where the ground is not level?

**Question 1.14:** Do you agree that, separately, there should be a right for additional storeys on purpose built free standing blocks of flats? If so, how many storeys should be allowed?

#### Premises that would benefit from a permitted development right to build upwards

1.21 We propose that upward extensions should be permitted on premises in a range of uses that are compatible with C3 residential use. These could include existing C3 residential premises, those A class and sui generis high street uses that can already change use to housing under a permitted development right (shops (A1), financial and professional services (A2), restaurants and cafes (A3), betting shops, pay day loan shops and launderettes), offices (B1 (a)), and buildings in mixed use within these uses.

1.22 We want to explore whether there may also be other buildings whose use is compatible with the introduction of new homes. Given they are usually located in residential areas or high streets, would premises such as health centres and buildings used for community and leisure purposes be suitable for inclusion in the permitted development right? Out of town retail parks with a mix of shopping and leisure uses may also be suitable for upward extensions to provide additional homes.

**Question 1.15:** Do you agree that the premises in paragraph 1.21 would be suitable to include in a permitted development right to extend upwards to create additional new homes?

**Question 1.16:** Are there other types of premises, such as those in paragraph 1.22 that would be suitable to include in a permitted development right to extend upwards to create additional new homes?

## Works to extend upwards

- 1.23 The permitted development right would need to allow for the physical works required to construct or install additional storeys on a building. These could include works to strengthen existing walls, engineering works to strengthen existing foundations to support the additional storeys and works to provide safe and appropriate access and egress for any additional new homes within the building's footprint. Separately it could also allow for works within the curtilage where it is necessary for access to the additional new homes. It is therefore proposed that the right would not seek to define particular physical works to allow for the varied nature of what might be required. There would, however, be a prior approval in relation to the nature and impacts of the works (see paragraph 1.25). In proposing any works, applicants would need to ensure that building safety matters were properly addressed.
- 1.24 It is important to note that requirements under other legislation continue to apply to development carried out under a permitted development right. Where relevant, development must comply with Building Regulations and Fire Regulations, the Party Wall Act and other legislation as appropriate.

<p><b>Question 1.17:</b> Do you agree that a permitted development right should allow the local authority to consider the extent of the works proposed?</p>
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## Prior Approval

- 1.25 Prior approval allows for the consideration by the local planning authority of the impacts of the permitted development right at the local level and can cover a range of matters that need further assessment and mitigation. We propose applying those prior approvals that have already proved beneficial in permitted development rights for change to residential use. These would include matters such as flooding and contamination risks, transport and highways and the impact of additional new homes on existing occupiers and businesses, especially those that create noise and odours which may be a statutory nuisance. Prior approval would apply the "agent of change" principle, set out in paragraph 182 of the National Planning Policy Framework, to ensure the introduction of housing could be integrated effectively with existing business and community uses, and to consider mitigation measures for the potential impacts on new residents and existing businesses. The prior approval would also assess the impacts of any works external to the building and within the curtilage, including fire escapes.
- 1.26 Prior approval would consider the design, siting and appearance of the upward extension and its impact on the amenity and character of the area, taking account of the form of neighbouring properties. This may include considering whether the proposed development is of good design, adds to the overall quality of the area over its lifetime, is visually attractive as a result of good architecture, responds to the local character and history of the area and maintains a strong sense of place, as set out in paragraph 127 of the National Planning Policy Framework. We expect prior approval on design to be granted where the design is in keeping with the existing design of the building.



1.27 Prior approval would also consider the impact of the development on the amenity of neighbouring premises, for example, from obscuring existing windows, reducing access to light or resulting in unacceptable impact on neighbours' privacy from overlooking. It would also consider measures to mitigate these impacts, and enable the neighbours, including owners and occupiers of premises impacted, to comment on the proposal.

1.28 We propose that applications for prior approval should be accompanied by an appropriate fee per dwelling proposed, recognising the range and complexity of issues for local authority consideration.

**Question 1.18:** Do you agree that in managing the impact of the proposal, the matters set out in paragraphs 1.25 -1.27 should be considered in a prior approval?

**Question 1.19:** Are there any other planning matters that should be considered?

1.29 Permitted development rights already allow the enlargement, improvement or alteration of existing homes to provide additional living space. This includes up to 50 cubic metres of additional roof space, such as a loft extension (which is no higher than the existing roof), as well as side and rear extensions. This consultation includes a proposal to make permanent the time-limited right for larger extensions to dwellinghouses (see paragraph 1.42 below). These rights do not allow for the addition of further storeys to an existing home. We are seeking views on whether the proposed right to build upwards to create new homes should additionally allow householders to extend their own homes.

**Question 1.20:** Should a permitted development right also allow for the upward extension of a dwelling for the enlargement of an existing home? If so, what considerations should apply?

### **The permitted development right to install public call boxes and associated advertisement consent**

1.30 Electronic Communications Code Operators<sup>9</sup> have permitted development rights to install telecommunications infrastructure, including public call boxes (telephone kiosks), subject to prior approval by the local planning authority. Separately, the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, as amended<sup>10</sup>, grants "deemed consent" for specified classes of advertisements including advertisements displayed on telephone kiosks. Subject to complying with the relevant conditions and limitations, advertisements granted deemed consent can be displayed on a single side of a telephone kiosk without seeking consent from the local planning authority.

1.31 Reflecting the technological changes that have taken place in recent years in relation to telecommunications, it is timely to consider whether the permitted development

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<sup>9</sup> Registered by Ofcom

<sup>10</sup> <http://www.legislation.gov.uk/ukxi/2007/783/contents/made>

right to install public call boxes remains necessary. The public call box (telephone kiosk) network already exists, and has for some time been shrinking due to the widespread availability of mobile telephone technology. In this context, many new public call boxes are brought forward as part of a programme of renewal and rationalisation of the existing infrastructure.

- 1.32 However, local planning authorities are seeing an increase in the number of prior approval applications for additional public call boxes in city centres, with a subsequent increase in the number of appeals coming before the Planning Inspectorate. The planning concerns in such cases have focused on the adverse impact on highway safety, accessibility and the cumulative impact on the street scene of additional structures on the pavement, which can lead to a less attractive high street.
- 1.33 Recognising that there is already an existing public telephone network in place, we propose removing the permitted development right for public call boxes. This would not prevent a new public call box being installed: rather in the future it would be the subject of consideration through a full planning application. This would not alter the lawfulness of existing public call boxes, or interfere with any industry requirement for the adequate provision of public telephones in order to meet the reasonable needs of individuals and communities and where there is a social need for their retention or their use in supporting the delivery of 5G.
- 1.34 We also propose amending the Control of Advertisements Regulations to remove the deemed consent which allows an advertisement to be placed on a single side of a telephone kiosk. This will allow the merits of an application for advertisement consent to be considered alongside a planning application for a kiosk. It would not affect the legal status of any advertisement with existing deemed consent already on a kiosk.
- 1.35 These changes would apply to any public call box, shelter or similar structure which is erected or installed for the purpose of housing or supporting electronic communications apparatus and at which an electronic communications service is provided (or is to be provided) by an Electronic Communications Code Operator. This would include, but not be limited to, any public call box, telephone call box, telephone kiosk, booth, stand, or acoustic hood etc.
- 1.36 We recognise that ever-increasing demands for mobile network capacity, and the impending arrival of 5G networks, means that wireless and mobile network operators are likely increasingly to need to deploy radio equipment at street level and on street furniture. We will continue to explore whether this proposal will have a material impact on the deployment of 5G. As set out in the Future Telecoms Infrastructure Review, Government will also continue to keep planning regulations under review to ensure that local planning authorities can manage demand for cell sites effectively.

**Question 1.21:** Do you agree that the permitted development right for public call boxes (telephone kiosks) should be removed?

**Question 1.22:** Do you agree that deemed consent which allows an advertisement to be placed on a single side of a telephone kiosk should be removed?

## **Increasing the height threshold for the permitted development right for electric vehicle charging points in areas used for off-street parking**

- 1.37 The government is committed to increasing the usage of zero emission vehicles to improve air quality and the environment, and to cut fuel costs. As set out in the Road to Zero Strategy<sup>11</sup> by 2050 we want nearly all cars and vans to be zero emission vehicles.
- 1.38 Existing permitted development rights allow the installation of an upstand, no greater than 1.6 metres in height, for recharging electric vehicles in a space located in an area legally used for off-street parking. Recent improvements in the technology and effectiveness of rapid charging points for electric vehicles could require a larger unit than allowed by the existing right. We therefore propose to increase the existing height limit to allow a charging point upstand no greater than 2.3 metres high. In order to protect the amenity and character of residential areas we do not propose increasing the height limit for a charging point upstand within the curtilage of a dwellinghouse.

**Question 1.23:** Do you agree the proposed increased height limit for an electrical vehicle charging point upstand in an off-street parking space that is not within the curtilage of a dwellinghouse?

## **Making permanent two time-limited permitted development rights**

### ***A. Change of use from storage or distribution to residential***

- 1.39 A time-limited permitted development right for change of use from storage or distribution to residential was introduced in 2015 for a period of three years. The right was amended in April 2018<sup>12</sup> to extend it for one year, enabling homes to be developed under the right while we considered whether to make it permanent. The amended right allows applicants to secure prior approval on or before 10 June 2019, and provides those with prior approval three years from the date of prior approval in which to change use.
- 1.40 The permitted development right allows buildings of up to 500 square metres of floorspace in use as B8 storage or distribution on 19 March 2014, which had been in such use for four years, to change to residential use. It is subject to prior approval by the local planning authority on specific planning matters including transport and highways, contamination, air quality, noise of the development, and flooding. It also includes consideration of the impact that change of use to residential might have on other nearby B8 or light industrial (B1 (c)) uses. The right does not apply in Article 2(3) land (including conservation areas, areas of outstanding natural beauty, the Broads, National Parks, and World Heritage sites) or in sites of special scientific interest.

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<sup>11</sup> The Road to Zero Next steps towards cleaner road transport and delivering our Industrial Strategy [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/723501/road-to-zero.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/723501/road-to-zero.PDF).

<sup>12</sup> <https://www.legislation.gov.uk/ukxi/2018/343/contents/made>

1.41 We consider that the right has a useful role to play in continuing to support housing delivery and making effective use of buildings. We therefore propose that the right should be made permanent and that the existing conditions, including the matters for prior approval, remain unchanged.

**Question 1.24:** Do you agree that the existing time-limited permitted development right for change of use from storage or distribution to residential is made permanent?

### ***B. Larger extensions to dwellinghouses***

1.42 The time-limited permitted development right for larger extensions to dwellinghouses, introduced in 2013, made it easier for homeowners to improve and enlarge their homes without the need for an application for planning permission. Following consultation in 2014 the right was extended for three years, to May 2019. Its use has continued to be popular, with over 22,400 larger extensions in 2017/18 able to go ahead. We therefore now propose that the right is made permanent, and the existing conditions remain unchanged.

1.43 The right allows for a single-storey rear extension of up to 8 metres in length for detached houses, and up to 6 metres in length for semi-detached and terrace houses, subject to consultation with neighbours on amenity. If adjoining neighbours object to a proposed extension the local authority then has to consider whether the impact on the amenity of any neighbours is acceptable before giving prior approval. The right does not apply in Article 2(3) land (including conservation areas, areas of outstanding natural beauty, the Broads, National Parks and World Heritage Sites) or in sites of special scientific interest.

1.44 In making the right permanent, and reflecting the large number of applications on which local authorities are required to consult and determine, we intend that a fee of £96 should be introduced, which would be consistent with other prior approval application fees. This would still be substantially below the standard planning application fee for similar works of £206.

**Question 1.25:** Do you agree that the time-limited permitted development right for larger extensions to dwellinghouses is made permanent?

**Question 1.26:** Do you agree that a fee should be charged for a prior approval application for a larger extension to a dwellinghouse?

### **Supporting housing delivery by allowing for the demolition of commercial buildings and redevelopment as residential**

1.45 Currently permitted development rights deliver new homes through the change of use of existing buildings. However, as these rights only allow for the reuse of existing premises, the approach does not always allow the full potential of a building or site to be realised which would require a full planning application. While permitted development rights therefore deliver new homes, they may encourage an owner to change use rather than seek to redevelop the site which is likely to allow for a higher density development. At Autumn Budget 2017 we committed to consulting on introducing a permitted development right that would allow the demolition of

commercial buildings and replacement build as residential, which would retain the ability to secure high quality development consistent with national policy.

- 1.46 Permitted development rights set out in legislation limit the scope of development permitted, such as limitations on size, and matters for prior approval by the local planning authority. Rights for the change of use can be relatively straightforward to define as the existing building remains in place. Similarly rights for extensions to existing buildings benefit from the knowledge that the physical form already exists and that what is allowed is managed by conditions reflecting the nature of the site. Allowing for the demolition of the existing commercial buildings, the planning of how the vacant site is newly configured and the nature of the new residential building would expand the current scope of permitted development rights and require a wider range of considerations.
- 1.47 Comments are invited on the scope of this right to ensure that it brings as many appropriate sites forward for development as possible. It may be that a right focused on smaller sites may be more practical in the light of the use of prior approvals. For example, in constructing a right it could be necessary to consider the size of the site; the height and density of new buildings; the existing use of the site; the relationship with local plan policies for key sites and areas where the right should apply. As with existing permitted development rights, development that is screened as having an environmental impact would be out of scope of the right.
- 1.48 Permitted development rights allow for consideration of specific matters through prior approval by the local planning authority. As demolition and redevelopment would be more ambitious than existing permitted development rights, comments are also invited on how prior approvals could be best used to mitigate the impacts of such development on the local area. It is recognised that applications under the resulting right would need to attract a proportionate fee.
- 1.49 In addition, where development is brought forward by a permitted development right, no longer requiring an application for planning permission, we would be interested in views on how developer contributions expected towards affordable housing and other infrastructure could be secured. Community infrastructure levy may be liable on any development brought forward in this way.
- 1.50 We would welcome views as to the design of a right which could operate effectively to bring sites forward for redevelopment. The responses to these questions will inform further thinking and a more detailed consultation would follow.

**Question 1.27:** Do you support a permitted development right for the high quality redevelopment of commercial sites, including demolition and replacement build as residential, which retained the existing developer contributions?

**Question 1.28:** What considerations would be important in framing any future right for the demolition of commercial buildings and their redevelopment as residential to ensure that it brings the most sites forward for redevelopment?

## Impact assessment

1.51 An impact assessment will be prepared prior to any secondary legislation being laid to introduce new or amended permitted development rights, or to amend the Use Classes Order. The proposals in respect of new and amended permitted development rights for extending buildings upwards, storage or distribution, and off-street vehicle charging points would remove the need for a planning application in more cases, thereby benefiting individuals and business by providing greater planning certainty and reducing costs. Similarly, any changes to certain of the 'A' use classes would be a deregulatory measure, removing the need for planning permission in more cases. Removing the existing right to install a new public call box, and thereby the associated advertisement consent, is a regulatory measure that has the potential to add costs to electronic code operators through requiring a full planning application to install a new public call box. Householders would continue to benefit from being able to build larger extensions on their homes without the need for a full planning application. Your views on the potential impacts of the proposed changes would be helpful in understanding the range of issues and scale of impacts. In particular we would be interested in your assessment of the likely take up of a new permitted development right to extend buildings upwards and where you think this right would be used, for example in metropolitan centres or across England.

**Question 1.29:** Do you have any comments on the impact of any of the measures?

- i. Allow greater change of use to support high streets to adapt and diversify
- ii. Introducing a new right to extend existing buildings upwards to create additional new homes
- iii. Removing permitted development rights and advertisement consent in respect of public call boxes (telephone kiosks).
- iv. Increasing the height limits for electric vehicle charging points in off-street parking spaces
- v. Making permanent the right for the change of use from storage to residential
- vi. Making permanent the right for larger extensions to dwellinghouses

## Public sector equality duty

1.52 We are required to assess these proposals by reference to the public sector equality duty contained in the Equality Act 2010. We would welcome your comments as part of this consultation.

**Question 1.30:** Do you have any views about the implications of our proposed changes on people with protected characteristics as defined in the Equality Act 2010? What evidence do you have on these matters? Is there anything that could be done to mitigate any impact identified?

# Part 2. Disposal of local authority land

## Introduction

- 2.1 The Housing White Paper, [Fixing our broken housing market](#)<sup>13</sup>, set out the government's plans to reform the housing market and boost the supply of new homes in England. A key element of those plans is to make more land available to build homes in the right places. As part of this, the government is committed to making the best use of surplus land which is already in public ownership.
- 2.2 To support local authorities in releasing surplus land, the Housing White Paper set out our intention to:
- amend the planning rules to allow all authorities to dispose of land with the benefit of planning permission which they have granted to themselves; and
  - consult on extending their flexibility to dispose of land at less than best consideration.
- 2.3 The first of these commitments has already been taken forward, and the new rules to allow all authorities to dispose of land with the benefit of planning permission which they have granted to themselves have come into effect<sup>14</sup>.
- 2.4 We are now seeking views on the second commitment. The purpose of these proposals is to streamline the involvement of the Secretary of State in the regime that governs disposal of land by local authorities at an undervalue, i.e. for less than best consideration. This is intended to give local authorities greater flexibility to dispose of public land at an undervalue where doing so is considered to deliver wider economic, social or environmental benefits. This section also covers the arrangements that apply to disposals of land by the Greater London Authority and its subsidiary bodies.

## Background

- 2.5 Government policy on the disposal of land starts from the principle that local authorities and other public bodies should sell surplus land for the best consideration that can be reasonably obtained. However, the government also recognises that, in some instances, it may be appropriate for local authorities and the Greater London Authority to dispose of land at an undervalue because wider public benefits, economic, social or environmental, would be created by that disposal. This may, for example, help support local community initiatives and facilitate regeneration projects that deliver new housing, including the provision of affordable housing.
- 2.6 Different rules govern the disposal of public sector land depending on the type of public body, the purposes for which the land is held and the extent of the proposed undervalue. At present the system requires the Secretary of State's approval for disposal of land at an undervalue. Such approval can either be inferred because a 'general consent' exists, or must be explicitly sought by the local authority writing to

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<sup>13</sup> <https://www.gov.uk/government/publications/fixing-our-broken-housing-market>

<sup>14</sup> <http://www.legislation.gov.uk/uksi/2018/99/made>

the Secretary of State in relation to that development: a 'specific consent'. General consents set out conditions which, if met by a proposed disposal, mean that the Secretary of State's specific consent does not need to be sought.

- 2.7 Local authorities have powers to dispose of land in any manner they wish subject to them complying with their legal obligations. The only constraint is that, if a disposal is for less than best consideration that can reasonably be obtained, the Secretary of State's consent is required<sup>15</sup>.
- 2.8 The Secretary of State has issued a general consent under section 123 of the Local Government Act 1972<sup>16</sup>, in relation to land held for purposes other than housing or planning (which is part of this consultation)<sup>17</sup>. It allows local authorities to dispose of such land at an undervalue of less than £2 million without seeking a specific consent where they consider it will help secure improvement of the economic, social or environmental well-being of the area.
- 2.9 The Secretary of State's power to issue a general consent for the disposal of land held for planning purposes (governed by section 233 and Part IX of the Town and Country Planning Act 1990<sup>18</sup>) has not yet been exercised, but this consultation invites responses on whether it should now be switched on.
- 2.10 Section 333ZC of the Greater London Authority Act 1999 restricts the ability of the Greater London Authority to dispose of its land at an undervalue except when it has the consent of the Secretary of State. In 2012 the Secretary of State issued a separate general consent for the disposal of land held by the Greater London Authority for the purposes of housing and regeneration at an undervalue of up to £10 million. (Details are at Annex B).

## Government proposals

- 2.11 Our proposals focus on the financial thresholds for obtaining the Secretary of State's consent to a proposed disposal of land at an undervalue. We consider that existing 'well-being' criteria for general consents (i.e. whether a proposed disposal would improve economic, social or environmental wellbeing) continue to offer helpful guidance to authorities to act in accordance with their fiduciary duties and are not specifically subject to consultation. However, we are inviting responses on whether such well-being criteria should form part of a proposed new general consent in relation to disposal at an undervalue of land held for planning purposes by local authorities.

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<sup>15</sup> See [section 123 of the Local Government Act 1972](#) (in relation to land held for purposes other than planning or housing), and [section 233 of the Town and Country Planning Act 1990](#) (in relation to land held for planning purposes).

<sup>16</sup> <http://www.legislation.gov.uk/ukpga/1972/70/part/VII/crossheading/land-transactions-principal-councils>

<sup>17</sup> This consent is known as *The Local Government Act 1972: General Disposal Consent (England) 2003*, also as '[Circular 06/2003](#)'.

<sup>18</sup> <https://www.legislation.gov.uk/ukpga/1990/8/part/IX>



- 2.12 We do not propose to amend the consents concerning land held for the purposes of Part II of the Housing Act 1985<sup>19</sup> (Housing Revenue Account land) and the related general consent, as we believe a case by case approach to Housing Revenue Account land consents remains appropriate to safeguard the rights of tenants.
- 2.13 Every local authority is required to appoint an appropriately qualified officer who has personal responsibility for the proper management of financial affairs. Nothing in these proposals alters this requirement or local authorities' fiduciary duties.
- 2.14 Some recently formed combined authorities have been given the same powers to dispose of land held for planning purposes as local authorities. Any proposals taken forward as a result of this consultation in relation to disposals of land held for planning purposes would therefore also apply to those combined authorities.

### **Land held for purposes other than housing or planning – section 123 of the Local Government Act 1972**

- 2.15 We consider that the conditions contained in the current general consent document require reconsideration and amendment. In particular, we consider that the existing £2 million threshold for disposals of land held for purposes other than planning or housing, set in 2003, is out of date because of increases in the value of land.
- 2.16 We consider that setting a new undervalue threshold of £5 million, or alternatively £10 million, would provide local authorities with substantially more flexibility to dispose of land without the involvement of the Secretary of State.
- 2.17 In the interests of consistency, we consider that the same undervalue threshold should apply to both disposals of land held for purposes other than planning or housing (under section 123 of the Local Government Act 1972) and of land held for planning purposes (under section 233 of the Town and Country Planning Act 1990 - see paragraph 2.19). Alternatively, we would also be interested to hear respondents' views on whether any amended and any new general consent (see paragraph 2.19) should contain any financial threshold at all. Removing or not including a financial threshold would mean local authorities would be able to dispose of land at *any* undervalue without seeking consent from the Secretary of State, although we consider that this should still be, subject to the proposed disposal promoting economic, social or environmental well-being.
- 2.18 Any amended general consent would supersede the version currently set out in Circular 06/2003. Accordingly, the accompanying technical guidance for valuers, the Technical Appendix<sup>20</sup> contained in the Circular, would be updated to reflect any changes to the consent.

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<sup>19</sup> <http://www.legislation.gov.uk/ukpga/1985/68/contents>

<sup>20</sup> <https://www.gov.uk/government/publications/disposal-of-land-for-less-than-the-best-consideration-that-can-reasonably-be-obtained-circular-06-2003>

**Question 2.1:** Do you think that the threshold for the existing general consent for the disposal of land held for purposes other than planning or housing at undervalue (under section 123 of the Local Government Act 1972) should:

- a. remain at the current level?
- b. be increased?
- c. be removed completely?

Please give your reasons.

**Question 2.2:** If you consider it should be increased, do you think the new threshold should be:

- a. £5 million or less?
- b. £10 million or less?
- c. other threshold? (please state level)

Please give your reasons.

### **Land held for planning purposes – section 233 of the Town and Country Planning Act 1990**

2.19 We consider that the current requirement to seek specific consent from the Secretary of State for every disposal at an undervalue of local authority land held for planning purposes is unnecessary. It can delay disposals and hold up development schemes, including for new housing. We therefore propose to introduce a new general consent for the disposal of land held for planning purposes at an undervalue. We are seeking views on this and what, if any, undervalue threshold such a general consent should be subject to. We propose that the consent should also include the economic, social or environmental well-being criteria currently applied in relation to the existing general consent, which is currently only applicable to disposal of land held for purposes other than planning or housing.

**Question 2.3:** Do you agree that the Secretary of State should issue a new general consent under section 233 of the Town and Country Planning Act 1990 for the disposal of land held for planning purposes? Please give your reasons.

**Question 2.4:** If yes, do you think any new general consent should apply to:

- a. disposals at an undervalue of £2 million or less?
- b. disposals at an undervalue of £5 million or less?
- c. disposals at an undervalue of £10 million or less?
- d. disposals at some other undervalue threshold? (please state level)
- e. all disposals regardless of the undervalue?

Please give your reasons.

**Question 2.5:** Do you agree that the economic, social or environmental well-being criteria which apply to the existing general consent should also apply to any new general consent for the disposal of land held for planning purposes?

**Question 2.6:** Do you have any additional comments about the current system governing disposals of land at an undervalue by local authorities and our proposals to amend it?

## **Land held by the Greater London Authority – section 333ZC of the Greater London Authority Act 1999**

2.20 The threshold on the general consent for the disposal of land at an undervalue by the Greater London Authority was set in 2012. Given the increase in land values in Greater London since then the Government is seeking views on whether the current threshold of £10 million remains appropriate.

**Question 2.7:** Do you consider that the current £10m threshold contained in the general consent governing disposals by the Greater London Authority remains appropriate? Please give your reasons.

**Question 2.8:** If you consider the current threshold is no longer appropriate, or that the limit should be removed completely, please specify what you think the alternative should be and give reasons.

### **Impact assessment**

2.21 A regulatory impact assessment is not required for these proposals as they do not regulate or deregulate business.

2.22 The main effect of the proposals would be either to enable local authorities to dispose of surplus land without the involvement of the Secretary of State, if the future general consent regime did not contain financial thresholds, or to limit the involvement of the Secretary of State only to those proposals where disposal of land occurred at a significantly higher threshold than currently applies in relation to that general consent. This would have a positive effect on local authorities as it will give them greater flexibility to support local development opportunities by allowing them to dispose of land more quickly and with greater certainty. There would be similar benefits for the Greater London Authority if equivalent amendments were made to the general consent that applies to disposals of their land. There would also be a slight benefit to business, i.e. the purchasers of the land, from quicker disposal decisions.

2.23 A secondary effect is that by requiring fewer cases to be referred to the Secretary of State for specific consent the proposals would reduce the administrative burden associated with such oversight. This would speed up government decision-making processes on cases where the Secretary of State retains a role.

2.24 We recognise that there may be concerns that the proposals would reduce the mechanisms for scrutinising disposal of land at an undervalue. However, we consider that the fiduciary duty owed by local authorities to their taxpayers, and legal remedies under public/criminal law principles, would provide sufficient protection to ensure any new or amended criteria contained in general consents are correctly applied where land was disposed of at an undervalue, and that local authorities act within their powers.

## **Public sector equality duty**

2.25 We are required to assess these proposals by reference to the public sector equality duty contained in the Equality Act 2010. We would welcome your comments as part of this consultation.

**Question 2.9:** Do you have any views about the implications of our proposed changes on people with protected characteristics as defined in the Equality Act 2010? What evidence do you have on these matters? Is there anything that could be done to mitigate any impact identified?

# Part 3. Canal & River Trust: Draft listed building consent order

## Introduction

- 3.1 The concept of listed building consent orders was introduced by the Enterprise and Regulatory Reform Act 2013<sup>21</sup>. The Secretary of State may by order (known as a 'listed building consent order') grant listed building consent in respect of works for the alteration or extension (but not demolition) of listed buildings of any description in England. An order would allow specified works which would otherwise require a series of separate applications for listed building consent. An order may grant listed building consent subject to conditions.
- 3.2 This is the first proposed use of the Secretary of State's powers. It follows detailed discussions between Historic England, the Canal & River Trust, and the Ministry of Housing, Communities and Local Government about how these powers could be used in a way that reduces unnecessary applications for routine, minor works, yet maintains appropriate protection for listed buildings and their settings.

## The draft order

- 3.3 In developing this draft listed building consent order the Secretary of State has had special regard to the desirability of preserving the listed buildings to which the order applies, their setting or any other features of special architectural or historic interest they possess in accordance with the requirements of section 26F of the Planning (Listed Buildings and Conservation Areas) Act 1990<sup>22</sup>.
- 3.4 Working closely with Historic England and the Canal & River Trust we have identified work which the Trust routinely undertakes to the listed waterway structures it is responsible for across England. Such works are necessary for the repair or maintenance of structures and to maintain the safe and effective operation of the waterways. This work may include, for example, such things as re-pointing, lock gate replacement, fencing and handrail replacement, reconstruction of lost or damaged masonry and the erection of operational signs.
- 3.5 The work is of a common nature and, in most cases, is unlikely to have a significant impact on the special architectural and historic interest of the listed waterway structures involved.
- 3.6 One of the Canal & River Trust's key charitable objectives is to protect and conserve for public benefit sites, objects and buildings of archaeological, architectural,

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<sup>21</sup> <http://www.legislation.gov.uk/ukpga/2013/24/section/60/enacted> By inserting Section 26C to the Planning (Listed Buildings and Conservation Areas) Act 1990

<sup>22</sup> <https://www.legislation.gov.uk/ukpga/1990/9/contents>

engineering or historic interest on, in the vicinity of, or otherwise associated with its waterways.

- 3.7 We consider that having to submit and determine separate listed building consent applications for this type of work places an unnecessary burden on the Canal & River Trust and the local planning authorities involved. We therefore, propose that these works are granted general listed building consent through a national listed building consent order.
- 3.8 As this would be the first such order we consider in this instance it would be beneficial to seek views on the draft listed building consent order attached at Annex C. Subject to the safeguards set out below, it would grant listed building consent for works executed by the Canal & River Trust for the alteration or extension of a waterway structure (as defined in article 2) owned, controlled or managed by the Trust which would affect its character as a building of special architectural or historic interest which are necessary to:
- (i) repair or maintain the waterways structure;
  - (ii) maintain the safe and effective operation of the waterway; or
  - (iii) effect any of the works listed in paragraphs (i) and (ii).

**Question 3.1:** Do you agree that the types of work set out in paragraph 3.8 should be granted a general listed building consent? Please give your reasons.

### Safeguards

- 3.9 The general listed building consent granted by the draft order is subject to the following safeguards:
- a. before undertaking any works covered by the order, the Trust would have to first agree with Historic England the methodology for how it will carry out the works and publish that methodology on its website (Schedule, paragraph 3(a)).
  - b. the Trust would have to report annually to Historic England on the works it has undertaken and publish a copy of that report on its website (Schedule, paragraph 3(b)).
  - c. the Secretary of State would have the power to direct that specific listed buildings, or listed buildings of a certain description or in a certain area, are not covered by the order (articles 4 and 5).
  - d. the Secretary of State would have to review the order from time to time and publish reports on the conclusions of reviews, including whether the order remains appropriate having special regard to the considerations set out in section 26F of the Planning (Listed Buildings and Conservation Areas) Act 1990 (article 6). We propose that the first review takes place 3 years after the order comes into effect.
- 3.10 We consider that these safeguards would ensure that there remains appropriate protection for the listed buildings covered by this order.

**Question 3.2:** Do you agree that the safeguards included in the order are appropriate? Please give your reasons.

**Question 3.3:** Do you consider that any additional safeguards are required? Please provide details.

## **Methodology for works**

3.11 As noted in paragraph 3.9 above, the draft order requires the Canal & River Trust, before undertaking any works, to first agree with Historic England a methodology for how the works will be carried out. The methodology is intended to set out the detailed principles and governance arrangements the Trust will put in place for undertaking works covered by the order.

3.12 The methodology will be a separate document rather than part of the order. This approach will:

- mean the order is clearer and easier to understand without the detailed methodology included; and
- allow the methodology to be reviewed and amended, subject to Historic England's agreement, more easily in the light of experience. Incorporating the methodology into the order would mean going through the legislative process each time it required amendment.

3.13 The Canal & River Trust and Historic England are currently inviting comments on a draft methodology. You may, therefore, also wish to respond to that separate consultation, details of which can be found at:

<https://historicengland.org.uk/about/what-we-do/consultations/guidance-open-for-consultation/>

The methodology will be formally agreed with Historic England before it is finalised.

## **Compensation**

3.14 It is a core principle of the planning system that where permission or consent has been granted and is subsequently withdrawn without notice there is a right to compensation.

3.15 We have previously confirmed our intention to base the compensation procedures where the listed building consent granted by an order is withdrawn on those which are in place for local listed building consent orders (see Enterprise and Regulatory Reform Act: Government Response to the Consultation on the Secondary Legislation to accompany the Heritage Provisions<sup>23</sup>). The compensation procedures that would apply will be set out in separate regulations.

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<sup>23</sup> <https://www.gov.uk/government/consultations/enterprise-and-regulatory-reform-act-secondary-legislation-to-accompany-the-heritage-provisions-a-consultation>

## **Impact assessment**

3.16 The main effect of the proposals would be to reduce the number of listed building consent applications which the Canal & River Trust submit, with consequent savings in time and resources. Local authorities would also benefit as they would no longer be required to determine such applications (for which there is no fee), freeing up their resources to be used where they are most needed. Based on the number of cases in 2016/17, the Trust estimates that the order could reduce the number of cases submitted by around 200 per annum.

## **Public sector equality duty**

3.17 We are required to assess this proposal by reference to the public sector equality duty contained in the Equality Act 2010. We would welcome your comments as part of this consultation.

**Question 3.4:** Do you have any views about the implications of our proposed changes on people with protected characteristics as defined in the Equality Act 2010? What evidence do you have on these matters? Is there anything that could be done to mitigate any impact identified?



# Part 4. New town development corporations: Draft compulsory purchase guidance

## Introduction

- 4.1 Well-planned and well-designed new communities have an important part to play in meeting our long-term housing needs. The government is already supporting the delivery of 24 locally-led garden towns and villages, with the potential for at least 220,000 new homes. At the Autumn Budget 2017 we announced that we would bring together public and private capital to build 5 more new garden towns.
- 4.2 New towns legislation allows the Secretary of State to designate areas as proposed new towns, and to establish development corporations to drive forward their delivery. This model was used to deliver the post-war generation of new towns. Although they have not been used for some time, the government considers that the new towns provisions still provide a powerful and effective mechanism for creating high quality new settlements at scale.
- 4.3 The earlier generation of new town development corporations were overseen by the Secretary of State. The Housing White Paper contained a commitment to legislate for locally accountable new town development corporations. The Neighbourhood Planning Act 2017<sup>24</sup> introduced amendments that enable the Secretary of State to transfer oversight of new town development corporations to local authorities. In December 2017 we consulted on draft regulations providing for the transfer of a number of functions from the Secretary of State to one or more local authorities where an area has been designated as a ‘locally-led new town’<sup>25</sup>. The resulting regulations came into force on 24 July 2018<sup>26</sup>.
- 4.4 All new town development corporations, whether overseen locally or nationally, have extensive compulsory purchase powers<sup>27</sup>. The exercise of these powers is likely to be important in carrying out the necessary land assembly to deliver designated new settlements and their associated infrastructure.
- 4.5 Compulsory purchase orders made by new town development corporations are subject to ‘confirmation’ (i.e. approval) by the Ministry of Housing, Communities and Local Government. Our existing guidance<sup>28</sup> sets out government policy on how compulsory powers should be used and the factors which confirming authorities will take into account when deciding whether to approve compulsory purchase orders. It contains both general considerations that apply to all compulsory purchase orders and specific considerations that are relevant to orders made under particular

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<sup>24</sup> Section 16 of the Neighbourhood Planning Act 2017

<sup>25</sup> [The New Towns Act 1981 \(Local Authority Oversight\) Regulations: a consultation paper \(December 2017\)](#)

<sup>26</sup> [The New Towns Act 1981 \(Local Authority Oversight\) Regulations 2018](#)

<sup>27</sup> See Section 10 of the New Towns Act 1981

enabling powers e.g. section 226 of the Town and Country Planning Act 1990, and/or by particular acquiring authorities such as e.g. Homes England.

- 4.6 However, our current guidance does not cover the compulsory purchase powers of new town development corporations. This creates potential uncertainty about how decisions on whether to approve compulsory purchase orders will be taken by the confirming Minister, which may lead to delays and deter local authorities who may wish to promote a locally led new town. Addressing this in the guidance will provide additional clarity for all stakeholders, including promoters, investors, infrastructure providers, landowners and local communities. The government response<sup>29</sup> to the December 2017 consultation stated that we would “*prepare new guidance on the use of new town development corporations’ compulsory purchase powers*”.

### The draft guidance

- 4.7 The draft guidance can be found at Annex D. It is intended to apply to all new town development corporations established under the New Towns Act 1981, not just those which are overseen locally. If taken forward it would be incorporated into our existing compulsory purchase guidance document. The box below sets out the key principles that have informed the preparation of the draft guidance.

**A: Certainty.** Clarifying matters which confirming Ministers will take into account, without fettering their decision-making function, highlighting in particular:

- That orders will be considered on their individual merits.
- New town development corporations’ broad powers to acquire land, including land for which there are no proposals, and the specific statutory objects these powers serve.
- The potential planning and commercial benefits of assembling land early in the new town development process.
- That new town development corporations may be justified in making a compulsory purchase order in advance of detailed proposals being developed and approved, given the scale and nature of new towns.

**B: Consistency.** Avoiding conflict with established legal and policy principles that govern the compulsory purchase process.

**C: Complementarity.** Supporting the government’s garden towns and villages programme and wider policy on new settlements.

- 4.8 The draft guidance sets out substantive government policy on how we expect new town development corporations’ compulsory purchase powers to be used, and the policy factors which Ministers will take into account when deciding whether to approve new town compulsory purchase orders. Given the scale and nature of new towns, and that new town powers have not been exercised for several decades, we consider in this instance it would be beneficial to seek views on the draft guidance.

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<sup>29</sup> [The New Towns Act 1981 \(Local Authority Oversight\) Regulations: summary of consultations responses and government response](#)

The intention is that the guidance, if taken forward, would be incorporated into our existing guidance on the compulsory purchase process.

4.9 Compensation is not covered in the draft guidance at Annex D. This is because the assessment of compensation is separate from the confirmation process for compulsory purchase orders, with disputes settled in the Upper Tribunal (Lands Chamber). Furthermore, our existing guidance on compulsory purchase process already provides an overview of compensation, and the special provision made in respect of new town, urban and mayoral development corporations<sup>30</sup>. In these areas, 'the scheme' to be disregarded for the purposes of assessing compensation is the development of any land for the purposes for which the area is or was designated. The means that the value of later acquisitions will not be influenced by earlier development<sup>31</sup>.

**Question 4.1:** Do you have any comments on the draft guidance at Annex D?

### **Public sector equality duty**

4.10 We are required to assess this proposal by reference to the public sector equality duty contained in the Equality Act 2010. We would welcome your comments as part of this consultation.

**Question 4.2:** Do you have any views about the implications of the proposed guidance on people with protected characteristics as defined in the Equality Act 2010? What evidence do you have on these matters? Is there anything that could be done to mitigate any impact identified?

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<sup>30</sup> See paragraph 76 of *Guidance on Compulsory purchase process and The Crichel Down Rules*, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/684529/Compulsory\\_purchase\\_process\\_and\\_the\\_Crichel\\_Down\\_Rules\\_-\\_guidance\\_updated\\_180228.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/684529/Compulsory_purchase_process_and_the_Crichel_Down_Rules_-_guidance_updated_180228.pdf)

<sup>31</sup> For further background, see:

- The policy factsheet on compulsory purchase published by the Government during the passage of the Neighbourhood Planning Act 2017. <https://www.gov.uk/government/publications/neighbourhood-planning-bill-policy-factsheets>
- The consultation on further reform of the compulsory purchase system and the Government's response. <https://www.gov.uk/government/consultations/further-reform-of-the-compulsory-purchase-system>

# 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), 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 at Annex A.

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](#).

# Annex A: Privacy notice

## Personal data

The following is to explain your rights and give you the information you are entitled to under the Data Protection Act 2018.

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](mailto: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**

The Data Protection Act 2018 states that, as a government department, MHCLG may process personal data as necessary for the effective performance of a task carried out in the public interest, i.e. a consultation.

### **3. With whom we will be sharing your personal data**

Your personal data will not be shared with any organisation outside of MHCLG.

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

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

### **5. 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.

**6.** The Data you provide directly will be stored by Survey Monkey on their servers in the United States. We have taken all necessary precautions to ensure that your rights in terms of data protection will not be compromised by this.

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

**8.** Your personal data will be moved from Survey Monkey 6 months from the date the consultation closes and stored in a secure government IT system.

# Annex B: Details of the general consent that governs disposals of land by the Greater London Authority

In 2012 the Secretary of State issued a general consent for the disposal of land held by the Greater London Authority, or any subsidiary, for the purposes of housing and regeneration at an undervalue provided that the following criteria are met:

- the Greater London Authority considers that the disposal will further or facilitate or is conducive or incidental to the furtherance of any one or more of its principal purposes of:
  - i. promoting economic development and wealth creation in Greater London
  - ii. promoting social development in Greater London
  - iii. promoting the improvement of the environment in Greater London
- the difference between the unrestricted value of the land and the consideration for the disposal does not exceed £10 million
- the difference between the unrestricted value of the land and the consideration for the disposal does not exceed 30 per cent of the unrestricted value of the land
- the Greater London Authority must observe all applicable laws and rules of the UK and European Community, including in particular European Commission State Aid requirements when making a disposal
- in determining whether or not to dispose of land for less than the best consideration that can reasonably be obtained the Greater London Authority should ensure that it complies with the relevant Royal Institution of Chartered Surveyors Appraisal and Valuation Standards, and with normal and prudent commercial practices, including obtaining the view of a professionally qualified valuer as to the likely amount of the undervalue.

# Annex C: Draft listed building consent order

*Draft Order laid before Parliament under section 93(5A) of the Planning (Listed Buildings and Conservation Areas) Act 1990, for approval by resolution of each House of Parliament.*

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## DRAFT STATUTORY INSTRUMENTS

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**2018 No.**

### **TOWN AND COUNTRY PLANNING, ENGLAND**

## **The Planning (Listed Building Consent) (Canal & River Trust) Order 2018**

*Made* - - - - [date]

*Coming into force in accordance with regulation 1*

The Secretary of State, in exercise of the powers conferred by sections 26C of the Planning (Listed Buildings and Conservation Areas) Act 1990<sup>(32)</sup> makes the following Order:

In accordance with section 26F(2) of that Act, the Secretary of State has consulted the Commission (known as Historic England) on this Order.

In accordance with section 93(5A) of that Act, a draft of this instrument has been laid before and approved by resolution of each House of Parliament.

#### **Citation, commencement and application**

1.—(1) This Order may be cited as the Planning (Listed Building Consent) (Canal & River Trust) Order 2017 and comes into force twenty-one days after the day after the day it is made.

(2) This Order applies in relation to England only.

#### **Interpretation**

2. In this Order—

“Canal & River Trust” means the Canal & River Trust, a charity registered with the Charity Commission, registered number 1146792 and a company limited by guarantee registered in England & Wales, registered number 7807276;

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<sup>(32)</sup> 1990 c. 9. Section 26C was inserted into the Planning (Listed Buildings and Conservation Areas) Act 1990 by section 60(3) of the Enterprise and Regulatory Reform Act 2013 (c. 24).



“relevant building” means a listed building which is or includes a waterways structure;

“waterways structure” means—

- (a) an aqueduct, bridge, crane, lock, boundary or distance marker, milepost, tunnel, waterway or basin wall, weir or sluice; or
- (b) an object or structure—
  - (i) which has a function which is ancillary to any structure listed in sub-paragraph (a); and
  - (ii) which is fixed to that structure and, for the purposes of section 1(5A)(a) of the Planning (Listed Buildings and Conservation Areas) Act 1990, is treated as part of the relevant building,which is owned, controlled or managed by the Canal & River Trust.

### **Listed building consent granted**

3.—(1) Subject to the provisions of this Order, listed building consent is granted under section 8(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 for the works described in the Schedule.

(2) Any consent granted by paragraph (1) is subject to the conditions specified in the Schedule.

(3) Nothing in this Order permits works which are contrary to any condition imposed by any other consent granted under Part 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Directions restricting the grant of listed building consent**

4. The Secretary of State may make a direction under this article that the consent granted by this Order does not apply to—

- (a) a relevant building specified in the direction;
- (b) a relevant building of a description specified in the direction; or
- (c) a relevant building in an area specified in the direction.

### **Procedure for article 5(1) directions**

5.—(1) The Secretary of State must give notice of any direction made under article 4(1) to the Canal & River Trust, the Commission and the relevant local planning authority as soon as practicable after the direction has been made.

(2) The notice referred to in paragraph (1) must—

- (a) include a copy of the direction;
- (b) specify a period of at least 21 days, stating the date on which that period begins, within which any representations concerning the direction may be made to the Secretary of State;
- (c) specify the date on which it is proposed that the direction will come into force.

(3) Unless the Secretary of State considers that it is necessary for the direction to take immediate effect, the date referred to in paragraph (2)(c) must be at least 28 days, but no longer than [1] year, after the date referred to in paragraph (2)(b).

(4) The direction comes into force on the date specified in accordance with paragraph (2)(c) unless, in the case of a non-immediate direction, the Secretary of State has first notified the Canal & River Trust, the Commission and the local planning authority of its cancellation.

(5) Any power conferred by this Order to give a direction includes power, at any time before or after the direction comes into force, to cancel or vary the direction by subsequent direction. The procedure set out in this article applies to any such subsequent direction.

### **Review**

6.—(1) The Secretary of State must from time to time—

- (a) carry out a review of this Order; and
- (b) publish a report setting out the conclusions of the review;

- (2) The first report must be published before [x date].
- (3) Subsequent reports must be published at intervals not exceeding 5 years.
- (4) A report published under this article must, in particular—
  - (a) set out the objectives intended to be achieved by this Order;
  - (b) assess the extent to which those objectives are achieved;
  - (c) assess whether the Order remains appropriate, having special regard to the considerations set out in section 26F of the Planning (Listed Building and Conservation Areas) Act 1990.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

*Name*

Minister of State

Date

Ministry of Housing, Communities and Local Government

## SCHEDULE

Article 3

### Works for which Listed Building Consent is granted

**1.** Subject to paragraphs 2 and 3, this Order permits works for the alteration or extension of a relevant building which would affect its character as a building of special architectural or historic interest which—

- (a) comprise works to all or part of a waterways structure;
- (b) are executed by the Canal & River Trust; and
- (c) are necessary for one or more of the following purposes—
  - (i) to repair or maintain the waterways structure;
  - (ii) to maintain the safe and effective operation of the waterway; or
  - (iii) to effect any of the works listed in paragraphs (i) and (ii).

**2.** This Order does not permit works for which scheduled monument consent (as defined in section 2(3)(a) of Ancient Monuments and Archaeological Areas Act 1979<sup>(33)</sup>) is required.

**3.** Consent for the works described in paragraph 1 is granted subject to the condition that the Canal & River Trust will—

- (a) before undertaking any works under this Order, agree with the Commission a methodology which sets out how it will undertake works under this Order, and publish that methodology on its website; and
- (b) report to the Commission details of the location and description of works undertaken under this Order on an annual basis, and publish the report on its website.

#### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order grants listed building consent for specified works undertaken by the Canal & River Trust, which means that individual applications for consent for works covered by this Order are not required. The works covered by this Order are described in the Schedule.

Article 3 grants listed building consent for the works described in the Schedule. This is subject to conditions which are set out in the Schedule. These conditions require the Canal & River Trust to agree with Historic England (defined as “the Commission” in the Planning (Listed Buildings and Conservation Areas) Act 1990) a methodology for undertaking the works, and to report the works it has undertaken under this Order to the Commission on an annual basis. The methodology and report must be published on the Canal & River Trust’s website.

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<sup>(33)</sup> 1979 c.46.

Article 4 allows the Secretary of State to issue a direction to provide that the consent granted by this Order does not apply to a particular listed building, or to listed buildings of a specified description or in a specific area, according to the procedure outlined in Article 5.

Article 6 requires the Secretary of State to carry out a regular review of the Order and to publish regular reports. The report must include an assessment of whether the Order remains appropriate, having special regard to the desirability of preserving the listed buildings to which the Order applies, their setting or any features of special architectural or historic interest which they possess (these are the considerations referred to in article 7(4)(c) which are set out in section 26F of the Planning (Listed Building and Conservation Areas) Act 1990).

[A full impact assessment has not been prepared for this instrument, as no, or no significant, impact on the private, voluntary or public sectors is foreseen]

# Annex D: Draft compulsory purchase guidance – new town development corporations

## 1. What is the purpose of a new town development corporation?

A new town development corporation can be established under [section 3 of the New Towns Act 1981](#) ('the 1981 act') for the purposes of developing a new town. The objects of a new town development corporation, as set out in [section 4\(1\)](#) of the 1981 act, are to secure the laying out and development of the new town in accordance with proposals approved under the 1981 act. In pursuing those objects, new town development corporations must aim to contribute to the achievement of sustainable development, having particular regard to the desirability of good design (see sections 4(1A) and (1B) of the 1981 act).

An area can be designated as the site of a proposed new town under [section 1](#) of the 1981 act where the Secretary of State is satisfied that it is expedient in the national interest for that area to be developed as a new town by a new town development corporation.

The development of new towns has traditionally been overseen by the Secretary of State. However, under [section 1A](#) of the 1981 act the Secretary of State may appoint one or more local authorities (an 'oversight authority') to oversee the development of the area as a 'locally-led' new town. Where an oversight authority is appointed a number of functions that would otherwise be exercisable by the Secretary of State are instead exercisable by the oversight authority – as provided for by the [New Towns Act 1981 \(Local Authority Oversight\) Regulations 2018](#).

The Government has published [separate guidance](#) on the process for designating a new town and establishing locally-led new town development corporations.

## 2. What powers does a new town development corporation have under the 1981 act?

Subject to any restrictions imposed under [section 5](#) of the 1981 act, [section 4\(2\)](#) gives new town development corporations the power, among other things, to acquire, hold, manage and dispose of land and other property, and generally to do anything necessary or expedient for the purposes or incidental purposes of the new town.

## 3. What powers does a new town development corporation have to acquire land?

The powers of new town development corporations to acquire land are set out in [section 10](#) of the 1981 act. They provide for a new town development corporation to acquire (whether by agreement or by compulsion):

- any land within the area of the new town, whether or not it is proposed to develop that land
- any land adjacent to that area which they require for purposes connected with the development of the new town
- any land, whether adjacent to that area or not, which they require for the provision of services for the purposes of the new town

The compulsory purchase powers provided for by section 10 of the 1981 act apply to all new town development corporations – including in the case of locally-led new towns. Compulsory purchase orders made by new town development corporations (regardless of whether the new town is nationally or locally-led) are subject to confirmation by the Secretary of State.

For nationally-led new towns the new town development corporation must obtain consent from the Secretary of State to acquire land by agreement. For locally-led new towns the new town development corporation must obtain consent to acquire land by agreement from the oversight authority.

#### **4. What is the procedure for a new town development corporation acquiring land compulsorily by a compulsory purchase order?**

The procedure for making a compulsory purchase order under the New Towns Act 1981 is set out in [schedule 4](#) to the 1981 act.

#### **5. In what circumstances can new town development corporations use their compulsory purchase powers?**

It is for new town development corporations to decide how best to use their land acquisition powers, having regard to this guidance. The compulsory purchase powers available to a new town development corporation in [section 10](#) of the 1981 act are expressed in broad terms, and are intended to assist with land assembly that is necessary to carry out its statutory objects of securing the laying out and development of a new town.

The Secretary of State will expect new town development corporations to demonstrate that they have taken reasonable steps to acquire the land included in a compulsory purchase order by agreement. Depending on when the land is required, it may sometimes be necessary for new town development corporations to initiate the compulsory purchase process in parallel with negotiations to acquire the land by agreement.

New town development corporation ownership of land early in the development process may assist with the proper planning for, infrastructure provision in and sustainable development of, a new town – in pursuit of its statutory objects under [sections 4\(1\), \(1A\) and \(1B\)](#) of the 1981 act. New town development corporation ownership of land may also help to stimulate confidence that the new town will proceed, help to secure infrastructure investment, and thereby promote development.

#### **6. Can new town development corporations acquire land even if they have no specific development proposals in place?**

[Section 10\(1\)](#) of the 1981 act enables new town development corporations to acquire land (compulsorily or by agreement) within the area of the new town whether or not it is proposed to be developed. The Secretary of State recognises that to achieve its statutory objects, it may sometimes be justified for a new town development corporation to acquire land for which it has no specific development proposals in place.

#### **7. What level of detail do new town development corporations need to provide when seeking an order?**

Given their scale, new towns are likely to be developed over an extended period of time, during which market conditions may change. In this context, the Secretary of State

recognises that it will not always be possible or desirable for new town development corporations to have fully worked up, and secured approval for, detailed development proposals prior to proceeding with a compulsory purchase order.

Where a new town development corporation does not have detailed proposals for the order lands, it will still be expected to demonstrate a compelling case for acquisition in the context of the planning framework that will guide development of the new town. The new town development corporation needs to be able to show that using compulsory purchase powers is necessary in the public interest and that the acquisition will support investment in and development of the new town.

The Secretary of State will expect the statement of reasons accompanying the submission of the compulsory purchase order to include a summary of the planning framework for the development of the new town and the justification for the timing of the acquisition, and that the new town development corporation will be in a position to present evidence at inquiry to support its case for compulsory acquisition.

While confirmation of a compulsory purchase order is a separate and distinct process from that of [designating a new town](#), the Secretary of State acknowledges that evidence used to support the case for designation in the national interest may also be relevant to justifying the use of compulsory purchase powers in the public interest under section 10 of the 1981 act.

#### **8. What factors will the Secretary of State take into account in deciding whether to confirm a compulsory purchase order under section 10 of the 1981 act?**

Any decision about whether or not to confirm a compulsory purchase order will be made on its individual merits, but the factors which the Secretary of State can be expected to consider include:

- the statutory objects of the new town development corporation
- whether the purpose(s) for which the order lands are being acquired by the new town development corporation fits in with the planning framework for the new town area
- whether the new town development corporation has satisfactorily demonstrated that the order lands are needed to support the overall development of the new town
- the appropriateness of alternative proposals (if any) put forward by the owners of the land or other persons
- the quality and timescale of both the new town development corporation's proposals and any alternative proposals

#### **9. What does the Secretary of State have to consider where there are other proposals for the use of land contained within a compulsory purchase order?**

Where owners or other parties have their own proposals for the use or development of land contained within a compulsory purchase order, factors that the Secretary of State can be expected to consider include:

- whether these alternative proposals are likely to be implemented, taking into account the planning position
- how the alternative proposals may conflict with those of the new town development corporation
- how the alternative proposals may conflict with the new town development corporation's statutory objects, and/or the purposes for which it was established.

**10. How can new town development corporations dispose of the acquired land?**

New town development corporations may dispose of land in such a manner as they deem expedient for securing the development of the new town or for purposes connected with the development of the new town (see [section 17 of the New Towns Act 1981](#)).

[Section 18 of the 1981 act](#) sets out certain requirements in respect of persons who were previously living or carrying on a business on land acquired by the new town development corporation. If such persons wish to obtain accommodation on land belonging to the new town development corporation and are willing to comply with any requirements of the corporation as to its development and use, section 18 requires the corporation, 'so far as practicable, to give them the opportunity to do so.