Permitted Development Rights Consultation

Design Codes

Question: Do you want to compete this section?

Response: No

Supporting housing delivery through change of use permitted development rights

Commercial Business and Service uses to dwellinghouses (Class MA of Part 3)

Floorspace limits

Q3: Do you agree that the permitted development right for the change of use from the Commercial, Business and Service use class (Use Class E) to residential (Class MA of Part 3), should be amended to either:

Response: No change

Please give your reasons:
Increasing the size of unit able to be converted will bring more appropriately located buildings into scope and potentially undermine the consideration of ensuring that new housing is placed in the right locations. This is especially so, given that large units are often found within defined commercial areas away from infrastructure and services that would support the sustainable provision of new homes.

Vacancy requirement

Q4: Do you agree that the permitted development right (Class MA of Part 3) should be amended to remove the requirement that the premises must be vacant for at least three continuous months immediately prior to the date of the application for prior approval?

Response: No

Please give your reasons:
Whilst the merit in creating flexibility amongst commercial and business uses is understood given the myriad of changes and challenges they face – high street decline, changing consumer habits, increase in online purchasing, changes in office working habits, etc. – demonstrating redundancy through some period of vacancy is often one of few tangible means of understanding that a building has limited appeal in continuing as a commercial or business premises. If the requirement is removed, some other requirement for demonstrating viability should be considered.

Article 2(3) land

Q5: Do you think that the permitted development right (Class MA of Part 3) should apply in other excluded article 2(3) land?

Response: No

Please give your reasons:
The commercial spaces within out other Article 2(3) areas is often small and characterful. As such they are more susceptible to incremental changes, like a slow transition to residential uses from PD changes, whereas a larger commercial/retail centre may incorporate that mixture of uses more successfully.

Prior approval – conservation areas

Q6: Do you think the prior approval that allows for the local consideration of the impacts of the change of use of the ground floor in conservation areas on the character or sustainability of the conservation is working well in practice?

Response: Don't know

Please give your reasons. If no, please explain why you don't think the prior approval works in practice?
Not familiar with any examples within our conservation areas but would expect this requirement to remain given the importance of considering changes to conservation area character that can occur with ground floor conversions.

Hotels, boarding houses and guest houses (Use Class C1) to dwellinghouses

Q7: Do you agree that permitted development rights should support the change of use of hotels, boarding houses or guest houses (Use Class C1) to dwellinghouses?

Response: No

Please give your reasons:
Tourism and the accommodation that supports that is important to Wealden's local economy, including tourism specifically linked with overnight stays. With ambitions grow our tourism offer, which includes a requirement to provide additional tourism accommodation, supporting change of use of our accommodation stock to dwellinghouses would undermine that.

Q8: Are there any safeguards or specific matters that should be considered if the change of use of hotels, boarding houses or guest houses (Use Class C1) to dwellinghouses was supported through permitted development rights?

Response: Yes

Please give your reasons. If yes, please specify:

If this right were to be introduced it should be subject to caveats and prior approval considerations that cover redundancy of the tourism accommodation, quality of the conversion (space standards, natural light, etc.), highways impacts (incl. parking).

Impact Assessments

Q9: Do you think that any of the proposed changes in relation to the Class MA permitted development right could impact on: a) businesses, b) local planning authorities, c) communities?

Response: Yes

Please give your reasons. It would be helpful if you could specific whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination:
Business and communities – Undermine the relatively small and characterful nature of the retail areas in our market towns and villages reducing choice and leading to further decline. Result in unsustainability located housing by conversion of more remote business and commercial uses.

Q10: Do you think that changes to Class MA will lead to the delivery of new homes that would not have been brought forward under a planning application?

Response: No

Please give your reasons:
There is no evidence that Class MA has delivered notable dwelling nos within the District – only 12 applications in the last 3 years.

Betting offices and pay day loan shops etc. to dwellinghouses (Class M of Part 3) and arcades etc. to dwellinghouses (Class N of Part 3)

Floorspace limits

Q11: Do you agree that the right for the change of use from hot food takeaways, betting offices, pay day loan shops and launderette (Class M of Part 3) is amended to:

Response: No change

Please give your reasons:
Using the right to deliver small, windfall housing seems proportionate. Increasing the floorspace even the limited 300sqm proposed here would undermine the planning system's ability to plan for the right homes in the right places.

Q12: Do you agree that the existing right (Class M of Part 3) is amended to no longer apply to launderettes?

Response: Yes

Please give your reasons:
They provide a valuable service to their local communities.

Q13: Do you agree that the right for the change of use from amusement arcades and centres, and casinos (Class N of Part 3) is amended to:

Response: No change

Please give your reasons:
Using the right to deliver small, windfall housing seems proportionate. Increasing the floorspace, even the limited 300sqm proposed here would undermine the planning system's ability to plan for the right homes in the right places.

Date the building was in use in order to benefit from the right

Q14: Do you agree that the right (Class M of Part 3) should be amended to replace the existing date on which the building must have been in use as a hot food takeaway, betting office, pay day loan shop or launderette instead to a two-year rolling requirement?

Response: No

Please give your reasons:
A shorter 2 year rolling period is not considered to be a good enough measure of a buildings use given that some uses are short lived, transitional and there can be high rates of failure for small business uses, i.e. buildings could be in use for just 2 years and then benefit from rights to turn into a dwelling. A longer period may be palatable, but evidence of redundancy or viability of the continued use should be a focus.

Q15: Do you agree that the right (Class N of Part 3) should be amended to replace the existing date on which the building must have been in use as an amusement arcade or centre, or casino instead to two year rolling requirement?

Response: No

Please give your reasons:
A shorter 2 year rolling period is not considered to be a good enough measure of a buildings use given that some uses are short lived, transitional and there can be high rates of failure for small business uses, i.e. buildings could be in use for just 2 years and then benefit from rights to turn into a dwelling. A longer period may be palatable, but evidence of redundancy or viability of the continued use should be a focus.

Article 2(3) land

Q16: Do you think that the permitted development right for the change of use from hot food takeaways, betting offices, pay day loan shops and launderette (Class M of Part 3) should apply in other article 2(3) land?

Response: No

Please give your reasons:
Commercial areas with out our article 2(3) land are often small and characterful. They suffer more from changes, even if limited, and therefore increasing flexibility for changes of use to dwellings would undermine the viability and character.

Q17: Do you think that the permitted development right for the change of use of amusement arcade or centre, or casino (Class N of Part 3) should apply in other excluded article 2(3) land?

Response: No

Please give your reasons:
Commercial areas with out our article 2(3) land are often small and characterful. They suffer more from changes, even if limited, and therefore increasing flexibility for changes of use to dwellings would undermine the viability and character.

Impact Assessments

Q18: Do you think that any of the proposed changes in relation to the Class M and N permitted development rights could impact on: a) businesses, b) local planning authorities, c) communities?

Response: Yes

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination:
Communities – Loss of launderettes will impact on lower income or vulnerable local residents who rely on nearby services like this for day-to-day needs.

Q19: Do you think that changes to Class M and N will lead to the delivery of new homes that would not have been brought forward under a planning application?

Response: No

Please give your reasons:
Limited use of these rights to date with no significant provision of windfall dwellings to justify further changes.

Commercial Business and Service, betting office or pay day loan shop to mixed use residential (Class G of Part 3)

Uses the right applies to

Q20: Do you agree that the right (Class G of Part 3) is expanded to allow for mixed use residential above other existing uses?

Response: Not answered

Please give your reasons. If yes, please say which uses the right might apply to and give your reasons:
Not answered

Number of flats that can be delivered

Q21: Do you agree that the number of flats that may be delivered under the right (Class G of Part 3) is doubled from two to four?

Response: No

Please give your reasons:
A small windfall allowance of 2 units is considered proportionate and has worked without concern for many years. Increasing the number of units that may be delivered undermines the planning process and the additional considerations that would be required – loss of commercial premises, vitality and viability of commercial areas, parking, residential amenities, physical changes and impact on character.

Consequential changes to the permitted development right that allows the change of use from a mixed use to Commercial Business and Service use or betting office or pay day loan shop right (Class H of Part 3)

Q22: Do you agree that the permitted development right (Class H of Part 3) is amended to align with any changes made to the uses to which Class G of Part 3 applies?

Response: Yes

Please give your reasons:
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Impact Assessments

Q23: Do you think that any of the proposed changes in relation to the Class G and H permitted development rights could impact on: a) businesses, b) local planning authorities, c) communities?

Response: Not answered

Please give your reasons:
Not answered

Q24: Do you think that changes to Cass G will lead to the delivery of new homes that would not have been brought forward under a planning application?

Response: Not answered

Please give your reasons:
Not answered

Agricultural buildings to dwellinghouses (Class Q of Part 3)

Size limits and maximum numbers of homes delivered

Q25: Do you agree that the smaller and larger home size limits within the agricultural buildings to dwellinghouses right (Class Q of Part 3) should be replaced with a single maximum floorspace limit of either:

Response: 100 square metres per dwellinghouse

Please give your reasons:
The district has a known shortage of affordable smaller accommodation. If rural dwelling PD rights are going to be reviewed it is right that review focuses on improving housing opportunities for the wider community and provides for smaller units, something that also reflects local character where rural dwellings are traditionally smaller. Providing fewer larger homes is not considered to be necessary and can adequately be delivered via planning applications.

Q26: Do you agree that an overall limit on the amount of floorspace that a change use, set at 1,000 square metres, should be introduced for the agricultural buildings to dwellinghouses right (Class Q of Part 3)?

Response: No

Please give your reasons:
Whilst the Council is supportive of delivery more homes, setting a higher overall floorspace limit is taking a step further in this undermining that delivery in a plan-led, strategic and sustainable way. A scheme of 10 x 100sqm properties would be major development if subject to a planning application, but such a proposal via PD would not face the same scrutiny.

Q27: Do you agree that the 5 home limit within the agricultural buildings to dwellinghouses right (Class Q of Part 3) should be increased to allow up to a total of 10 homes to be delivered within an agricultural unit?

Response: No

Please give your reasons:

Whilst the Council is supportive of delivering more homes, setting a higher limit on no. of units is taking a step further in this undermining that delivery in a plan-led, strategic and sustainable way. A scheme of 10 x 100sqm properties would be major development if subject to a planning application, but such a proposal via PD would not face the same scrutiny.

Rear extensions

Q28: Do you agree that the permitted development right for the change of use from agricultural buildings to residential use (Class Q of Part 3) should be amended to allow for an extension to be erected as part of the change of use on previously developed land?

Response: No

Please give your reasons:
The suburbanisation and domestication of the countryside is already a matter of concern. Allowing agricultural buildings to be extended without any scrutiny of its design and impact on local character could exacerbate that, particular where maintaining the form of agricultural buildings to be converted makes the conversion more palatable. If redundant buildings do require extension to make their conversions more successful this can adequately be considered under a planning application.

Q29: Do you agree that a prior approval be introduced, allowing for the consideration of the impacts of an extension on the amenity of neighbouring premises, including overlooking, privacy and light?

Response: Yes

Please give your reasons:
If the right were to go ahead, yes it should include this provision.

Minimum building size

Q30: Do you agree that buildings should have an existing floorspace of at least 37 square metres to benefit from the right?

Response: Yes

Please give your reasons:
Yes, it is right that permitted development conversions align at least with the minimum space standards. However, if the aim is to ensure "the right is not used to change the use of isolated, small buildings, sited sporadically across the open countryside", then wholesale review needs to be given to Class Q rights and similar. The Council are often successful in resisting poorly located barn conversions that require planning permission because they are in essence unsustainable, but that is not only because of their size. Large units or multiple units in poorly located areas - essentially, large parts of the countryside - should also be avoided for the same

reasons. Creating greater flexibility under PD will undermine the delivery of the right homes in the right places.

Article 2(3) land

Q31: Do you think that the permitted development right for the change of use from agricultural buildings to residential use (Part 3 Class Q) should be amended to apply in other article 2(3) land?

Response: No

Please give your reasons:
Issues of sustainability and rural character are of upmost importance, particularly in article 2(3) areas. As stated in an early response, the Council have been successful in refusing those schemes which are poorly located or undermine local rural character through their urbanisation of the countryside. Creating greater flexibility for PD conversions will undermine that.

Agricultural buildings not solely in agricultural use

Q32: Do you agree that the right be amended to apply to other buildings on agricultural units that may not have been solely used for agricultural purposes?

Response: Don't know

Please give your reasons:
It is not clear what this right is covering. If an agricultural building is not in agricultural use, then it's not an agricultural building as it would fall within a different use class. The storage example given would be Use Class B8, for example. How would an agricultural building not solely in agricultural use be defined.

Q33: Are there any specific uses that you think should benefit from the right?

Response: No

If yes, please give examples of the types of uses that the right should apply to:
-

Q34: Are there any specific uses that you think should not benefit from the right?

Response: Don't know

If yes, please give examples of the types of uses that the right should not apply to.
-

Former agricultural buildings no longer on an agricultural unit

Q35: Do you agree that the right be amended to apply to agricultural buildings that are no longer part of an agricultural unit?

Response: No

Please give your reasons:
Not clear how it could be evidenced that buildings are now outside of agricultural units and that this happened as a result of genuine and necessary changes to the practices of the holding. How would the speculative removal of land and buildings from units be tested. Furthermore, concerns around sustainability of location and the urbanisation of the countryside as mentioned elsewhere apply here too.

Highways access

Q36: Do you agree that any existing building must already have an existing suitable access to a public highway to benefit from the right?

Response: Yes

Please give your reasons:
-

Works permitted

Q37: Do you have a view on whether any changes are required to the scope of the building operations permitted by the right?

Response: Yes

Please give your reasons. If yes, please provide details:
No changes required.

Q38: Do you have a view on whether the current planning practice guidance in respect of the change of use of agricultural buildings to residential use should be amended?

Response: No

Please give your reasons. If yes, please provide details of suggested changes:
-

Enabling the change of use of other rural buildings to residential

Q39: Do you agree that permitted development rights should support the change of use of buildings in other predominantly rural uses to residential?

Response: No

Please give your reasons. If yes, please specify which uses:

As stated previously, greater flexibility of PD rights is undermining a plan-lead system that can deliver the right homes in the right places. Allowing more rural buildings to be converted to residential means more opportunities to create unsustainably located properties and to exacerbate the urbanisation of the countryside. The appropriate place to review this is via planning applications with appropriate rural conversion exception policies.

Q40: Are there any safeguards or specific matters that should be considered if the right is extended to apply to buildings in other predominantly rural uses?

Response: Not Answered

Please give your reasons If yes, please specify:
Not answered

Impact Assessments

Q41: Do you think that any of the proposed changes in relation to the Class Q permitted development right could impact on: a) businesses b) local planning authorities c) communities?

Response: Not Answered

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination:
Not answered

Q42: Do you think that changes to Class Q will lead to the delivery of new homes that would not have been brought forward under a planning application?

Response: Not Answered

Please give your reasons
Not answered

Supporting the agricultural sector through additional flexibilities

Do you want to complete this section?

Response: Yes

Supporting the agricultural sector through additional flexibilities

Agricultural buildings to a flexible commercial use (“agricultural diversification”) (Class R of Part 3)

Types of uses to which the right applies

Q43: Do you agree that permitted development rights should support the change of use of other buildings in a predominantly rural land use to a flexible commercial use?

Response: Don't know

Please give your reasons. If yes, please specify which uses:
If such a change genuinely supports the wider rural economy then that has its benefits, but there remain concerns about the impacts on expanding the PD. For example, allowing greater flexibility of the use of forestry buildings may result in greater pressure on trees, woodlands and ancient woodlands. Allowing flexibility of former equestrian uses - which are often allowed in the first instance due to some exception - would see some uses possibly inappropriately located.

What flexible uses can buildings be used for

Q45: Do you agree that the right be amended to allow buildings to change use to general industrial, limited to only allow the processing of raw goods produced on the site and which are to be sold on the site, excluding livestock?

Response: Don't know

Please give your reasons:
The potential impacts of B2 type uses needs greater consideration here. The planning application process is clearly the most appropriate opportunity for that, but if the proposals were to go ahead in order to support agricultural and rural enterprise, then then prior approval criteria would need to be considerate of a full gambit of potential impacts on nearby residents, including from fumes and smells too - especially where the processing includes some form of food preparation. Also, smaller units close to neighbouring homes could cause an impact so the prior approval process should apply to any size unit.

What flexible uses can buildings be used for

Q46: Should the right allow for the change of uses to any other flexible commercial uses?

Response: No

Please give your reasons. If yes, please specify which uses:
To ensure appropriate impacts are considered, such changes should be reviewed via the planning application process.

Allowing mixed uses

Q47: Do you agree that the right be amended to allow for a mix of the permitted uses?

Response: No

Please give your reasons:
The best way to consider opportunities for flexible uses in rural areas is via the planning application process where all aspects can be reviewed.

Amount of floorspace that can change use

Q48: Do you agree that the right be amended to increase the total amount of floorspace that can change use to 1,000 square metres?

Response: No

Please give your reasons
-

Prior notification/approval triggers

Q49: Is the trigger as to whether prior approval is for required set at the right level (150 square metres)?

Response: No

Please give your reasons. If not, please say what it should be, and give your reasons:
It should be lower.

Impact Assessments

Q50: Do you think that any of the proposed changes in relation to the Class R permitted development right could impact on: a) businesses b) local planning authorities c) communities?

Response: Not Answered

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.
Not answered

Agricultural development

Agricultural development on units of 5 hectares or more (Class A of Part 6)

Q51: Do you agree that the ground area limit of new buildings or extensions erected under the right be increased from 1,000 to 1,500 square metres?

Response: No

Please give your reasons:
Whilst the Council supports rural enterprise and the agricultural sector, the size of buildings that can already be erected under permitted development is large, with significant character and landscape impacts in some instances. Increasing that when the only control is a relatively weak prior approval process raises some concerns.

Q52: Do you agree that we remove the flexibility for extensions and the erection of new buildings where there is a designated scheduled monument?

Response: Yes

Please give your reasons:
-

Agricultural development on units of less than 5 hectares (Class B or Part 6)

Q.53 Do you agree that the right be amended to allow extensions of up to 25% above the original building cubic content?

Response: No

Please give your reasons:
Significant scope for change already permitted. Increasing allowances will further undermine local character considerations.

Q54: Do you agree that the right be amended to allow the ground area of any building extended to reach 1,250 square metres?

Response: No

Please give your reasons:
-

Q55: Do you agree that we remove the flexibility for extensions where there is a designated scheduled monument?

Response: Yes

Please give your reasons:
-

Impact Assessments

Q56: Do you think that any of the proposed changes in relation to the Part 6 permitted development rights could impact on: a) businesses b) local planning authorities c) communities?

Response: Not Answered

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination:
Not answered

Supporting businesses and high streets through greater flexibilities

Do you want to complete this section?

Response: Yes

Commercial Business and Service use extensions (Class A of Part 7)

Q57: Do you agree that the maximum floorspace limit for the extension or alteration to a Commercial, Business and Service establishment on non-protected land is increased to either 200 square metres or a 100% increase over the original building, whichever is lesser?

Response: Not Answered

Please give your reasons:
Not answered

Industrial and warehousing extensions (Class H of Part 7)

Q58: Do you agree that the maximum floorspace of a new industrial and/or warehousing building on non-protected land permitted under the Part 7 Class H permitted development right be amended to 400 square metres?

Response: Not Answered

Please give your reasons
Not answered

Industrial and warehousing extensions (Class H of Part 7)

Q59: Do you agree that the maximum floorspace of a new industrial and/or warehousing extension on non-protected land be increased to either 1,500 square metres or a 75% increase over the original building, whichever is lesser.

Response: Not Answered

Please give your reasons:
Not answered

Impact Assessments

Q60: Do you think that any of the proposed changes in relation to the Part 7 permitted development rights could impact on: a) businesses b) local planning authorities c) communities?

Response: Not Answered

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.
Not answered

Markets - temporary use of land (Class B of Part 4)

Q61: Do you agree that the permitted development right for the temporary use of land should be amended so that markets can operate either:

Response: Not Answered

Please give your reasons. If you have chosen a different number of days per calendar year, please specify what number of days the right should provide for?
Not answered

Impact Assessments

Q62: Do you think that any of the proposed changes in relation to the Part 4 permitted development rights could impact on: a) businesses b) local planning authorities c) communities?

Response: Not Answered

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination:
Not answered

Ensuring the sufficient capacity of open prisons

Do you want to complete this section?

Response: No

Public Sector Equality Duty

Q66: Do you think that the changes proposed in this consultation could give rise to any impacts on people who share a protected characteristic? (Age; Disability; Gender Reassignment; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation).

Response: Not Answered

Please give your reasons:
Not answered

Call for evidence - nature-based solutions, farm efficiency projects, and diversification.

Do you want to complete this section?

Response: No