
Supporting Defence Infrastructure and the Future of Time-Limited Permitted Development Rights

Overview

This consultation contains proposed changes to two permitted development rights in the Town and Country Planning (General Permitted Development) (England) Order 2015 that were introduced to support businesses and the high street in response to the coronavirus pandemic. It covers the following areas:

1. Class BB of Part 4 permitting moveable structures within the curtilage of a pub, café, restaurant, or historic visitor attractions,
2. Class BA of Part 12 permitting for markets to be held by or on behalf of Local Authorities.

This consultation also contains proposed new permitted development rights to support delivery of infrastructure for Defence on the Defence estate.

Why we are consulting

This consultation seeks views on the future of two temporary permitted development rights listed above, including the benefits of the rights as they exist, and views on proposed mitigation if they were to be made permanent.

This consultation also seeks views on proposed new permitted development rights for the Ministry of Defence to enable the modernisation and development of the Defence estate.

We are also seeking views on equality and impact of the rights on local authorities, businesses, and the community.

Introduction

This consultation contains proposed changes to two permitted development rights in the Town and Country Planning (General Permitted Development) (England) Order 2015 which were introduced to support businesses and the high street in response to the coronavirus pandemic. It covers the following areas:

1. Class BB of Part 4 permitting the provision of moveable structures in the curtilage of pubs, cafes, restaurants and historic visitor attractions,
2. Class BA of Part 12 permitting for markets to be held by or on behalf of Local Authorities.

This consultation also seeks views on proposed new permitted development rights for the Ministry of Defence to enable the modernisation and development of the Defence estate.

This consultation seeks views on the future of two temporary permitted development rights listed above, including the benefits of the rights as they exist, and views on proposed mitigation if they were to be made permanent. We are also seeking views on equality and impact of the rights on local authorities, businesses, and the community.

Name:

Name:

Adele Metcalfe

Email address:

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

Email:

adele.metcalfe@peakdistrict.gov.uk

What is the type of organisation that you work for?

Please select only one item

- ☐ Developer ☐ Planning consultant ☐ Construction company or builder ☐ Local authority
☐ Statutory consultee ☐ Professional organisation ☐ Lawyer ☐ Charity or voluntary organisation
☐ Town Council ☐ Parish Council ☐ Community group, including residents' associations
☐ Private individual x Other

If applicable, what is the name of your organisation?

Organisation:

National Parks England (NPE). NPE exists to provide a collective voice for the nine English National Park Authorities and the Broads Authority. It is governed by the Chairs of the ten Authorities. Our response represents the collective view of officers who are working within the policies established by the National Park Authorities (NPAs). Individual National Park Authorities/Broads Authority may submit separate comments, which will draw on the specific issues for their particular area.

What is your position in the organisation?

Position in organisation:

Nominated representative.

I confirm that I have read, understand and agree to the above

(Required)

Please select only one item

xYes

Privacy notice

Personal data

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

Note that this section only refers to personal data (your name, contact details and any other information that relates to you or another identified or identifiable individual personally) not the content otherwise 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) and the Ministry of Defence (MOD) are the data controllers. The Data Protection Officers can be contacted at dataprotection@communities.gov.uk or by writing to the following address: Data Protection Officer, Ministry of Housing, Communities and Local Government, Fry Building, 2 Marsham Street, London SW1P 4DF, and for MOD at cio-dpa@mod.gov.uk or by writing to the following address: MOD Data Protection Officer, Ground Floor, Zone D, Main Building, Whitehall, London, SW1A 2HB.

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, the Ministry of Housing, Communities and Local Government and the Ministry of Defence may process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation. Article 6(1)(e) of the UK General Data Protection Regulation states that processing shall be lawful if processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. This consultation does not actively seek special category personal data. Where such data is provided in response to the consultation the data subject will be considered to have given explicit consent for the processing of those personal data for one or more specified purposes in accordance with Article 9 (2)(a) of the UK General Data Protection Regulation.

4. With whom we will be sharing your personal data

All representations submitted in response to this consultation will be shared between the Ministry of Housing Communities and Local Government, and the Ministry of Defence as this is a joint consultation between those Departments. Specific representations may also be shared with other central government departments and their agencies, such as the Department of the Environment Food and Rural Affairs, where it is necessary to draw on their expertise and it is not possible to anonymise the data. Should we receive a large response to this consultation, we may share your personal data with a third-party supplier in order to process the responses. In this instance, we will update this Privacy Notice with further details of this third-party supplier.

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

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

6. Your rights, e.g. access, rectification, restriction, objection

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 your data corrected if it is incorrect or incomplete
- d. to object to our use of your personal data in certain circumstances
- e. 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.

Please contact us at the following address if you wish to exercise the rights listed above, except the right to lodge a complaint with the ICO: dataprotection@communities.gov.uk or Knowledge and Information Access Team, Ministry of Housing, Communities and Local Government, Fry Building, 2 Marsham Street, London SW1P 4DF.

Or at MOD please contact: cio-dpa@mod.gov.uk or by writing to the following address: MOD Data Protection Officer, Ground Floor, Zone D, Main Building, Whitehall, London, SW1A 2HB.

7. Your personal data will not be sent overseas.

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

9. We are using a third-party system, Citizen Space, to collect consultation responses.

In the first instance your personal data will be stored on their secure UK-based server. Your personal data will remain on the Citizen Space server and/or be transferred to our secure government IT system for two years of retention before it is deleted.

Focus of your response to this consultation

Will you be answering questions relating to:

Please select only one item

☐ Time-limited permitted development rights ☐ Defence permitted development rights ☒ Both

The Future of Time-Limited Permitted Development Rights

Several permitted development rights have been introduced since March 2020 by the Government in order to support business in re-opening and provide flexibility to encourage use of outdoor spaces. Having implemented these on a temporary basis, we are now interested in better understanding how these rights have been used, the benefits of retaining them and understanding the impacts of the rights, so a decision can be made as to their future.

Q1) Right for markets by or on behalf of local authorities:

Q.1.a. Do you agree that the right allowing markets to be held by or on behalf of local authorities for an unlimited number of days per year (Part 12, Class BA) should be made permanent?

Please select only one item

☐ Yes ☐ No ☐ Don't know

Please give your reasons:

Q.1.b. Do you have any evidence as to any benefits and impacts as a result of introducing this right for markets, or have views of future impacts were the right made permanent?

Please select only one item

☐ Yes ☐ No ☐ Don't know

Please give your reasons:

Q.1.c. Do you think that there should be a limit on the number of days that this right can be used for in a calendar year?

Please select only one item

☐ Yes ☐ No ☐ Don't know

Please give your reasons:

Q.1.d. Do you have views on whether there should be additional restrictions on the use of this right to mitigate against potential impacts of making this permanent, including proximity to scheduled monuments?

Please select only one item

☐ Yes ☐ No ☐ Don't know

Q2) Right for the provision of moveable structures

Q.2.a. Do you agree that the right allowing for the provision of moveable structures (Part 4, Class BB) should be made permanent?

Please select only one item

☐ Yes ☒ No ☐ Don't know

National Park/Broads Authorities have a duty to conserve and enhance cultural heritage and promote opportunities for the understanding and enjoyment of their special qualities. Importantly this includes characteristic settlements typical of the area often including manor houses, churches, schools, farm-houses, inns, shops and industrial buildings.

We believe the permitted development right should not be made permanent in National Parks and the Broads (and other protected areas) due to the likely adverse impact on valued character. Valued character is different for each national park but of particular relevance to this consultation is the valued character associated with the architecture and cultural heritage.

If the permitted development right is made permanent in National Parks and the Broads, we believe the right should exclude conservation areas and the curtilage of listed buildings. However for the reason stated, we believe the right should not be made permanent in any area of a National Park or Broads because many pubs, restaurants and cafes are not in listed buildings or within conservation areas. Many characteristic settlements and historic visitor attractions would still be adversely affected.

It is not clear how the term 'moveable structure' should be interpreted and how it relates to the well-established criteria that are used to determine whether or not a particular structure is a building, i.e. permanence, size and physical attachment. It seems inconsistent to refer to such structures being 'moveable' but to propose that the permitted development right be made permanent. (Although it is noted that the government is seeking views on whether there should be a limit on the number of days the permitted development right can be used per calendar year and have proposed a limit of 56 days.)

Q.2.b. Do you have any evidence of benefits and impacts as a result of the introduction of the right for moveable structures (Part 4, Class BB), or have views on potential future impacts were the right made permanent?

Please select only one item

☒ Yes ☐ No ☐ Don't know

Please give your reasons:

The current permitted development right has caused adverse visual impact, particularly in the case of 'moveable structures' sited in conservation areas and in the curtilage/setting of listed buildings and other traditional/vernacular buildings. This is due to a combination of their inappropriate design and use of inappropriate materials, size, close proximity to the existing building and prominence from public viewpoints. This adverse impact is also likely to result from the proposal to make the permitted right permanent.

The current permitted development right has resulted in complaints from nearby residents about harm being caused – chiefly through noise arising from the use of 'moveable structures' at pubs/restaurants by customers. It is worth bearing in mind that in general the use of part of the curtilage of a pub/restaurant as a beer garden or similar would not require planning permission. However, the provision of a dedicated covered seating area in a 'moveable structure' is likely to increase the impact on residents as it is likely to be more intensively used than uncovered seating, for example.

The provision of 'moveable structures' may in some cases displace on-site car parking/turning space and result in on-street parking – causing highway safety issues, particularly where current parking/turning space is limited.

The permitted development right was introduced in response to Covid-19 to make it easier for outdoor areas to be used by customers and thus provide support for businesses reopening after lockdown. However, it allows for any 'moveable structure', regardless of intended use, provided that use is incidental or ancillary to the primary use. So, as it stands, the permitted development right would allow for, say, a storage use or maybe, in the case of a pub/restaurant, the use of a structure for the preparation of food/drink.

Q.2.c. Do you think the right for moveable structures (Part 4, Class BB) should be limited to 56 days per calendar year?

Please select only one item

Yes ☐ No ☐ x Don't know

Please give your reasons:

It is not clear how this would work given that currently, the siting of a relatively small marquee (or similar non-fixed structure) for short periods of time within a pub curtilage, for example, would not normally constitute a building and would not, therefore, amount to development.

Any proposal to limit the number of days a 'moveable structure' could be provided would be welcomed. However it would be extremely difficult to monitor.

Q.2.d. Do you think that the right for moveable structures (Part 4, Class BB) could be greater than 56 days, or allowed for an unlimited number of days, in the curtilage of non-listed buildings?

Please select only one item

☐ Yes ☒ No ☐ Don't know

For the reasons described in Q2a.

Q.2.e. Do you agree that there should be a height limit for the moveable structures of 4 metres?

Please select only one item

x Yes ☐ No ☐ Don't know

Please give your reasons:

If the permanent permitted right is to apply in National Parks and the Broads it is suggested that conditions/limitations should apply in the same way as is currently the case with Class E buildings within the curtilage of dwellings (in summary, up to 50% of the curtilage, not forward of the principal elevation or between the side elevation and boundary, only single-storey and not more than 4 metres in height (if it has a dual-pitched roof) or 2.5 metres if within 2 metres of the boundary or 3 metres in any other case, no more than 2.5 metres eaves height, not within curtilage of listed building and not to include a verandah, balcony or raised platform).

Q.2.f. Do you agree that there should be a size threshold on the moveable structures allowing them to be up to 50% of the footprint of the existing building on site?

Please select only one item

x Yes ☐ No ☐ Don't know

Please give your reasons:

If the permanent permitted development right is to apply in National Parks and the Broads it is suggested that conditions/limitations should apply in the same way as is currently the case with Class E buildings within the curtilage of dwellings (in summary, up to 50% of the curtilage, not forward of the principal elevation or between the side elevation and boundary, only single-storey and not more than 4 metres in height (if it has a dual-pitched roof) or 2.5 metres if within 2 metres of the boundary or 3 metres in any other case, no more than 2.5 metres eaves height, not within curtilage of listed building and not to include a verandah, balcony or raised platform).

There should also be a limit to their use – i.e. solely for the use of customers consuming food and drink.

Q.2.g Do you have any evidence of impacts specifically on heritage assets, including listed buildings as a result of the introduction of the right for moveable structures (Part 4, Class BB). Do you have any views on potential future impacts on heritage assets were the right made permanent?

Please select only one item

☒ Yes ☐ No ☐ Don't know

Please give your reasons:

Charles Bistro, Baslow – Property is not listed but is within Conservation Area. Located at the front of the building so very visible from the road. Harmful to the building and the Conservation Area due to its siting, design and materials of construction. Close to St Anne's Church (grade II* listed) and Lych Gate to Churchyard (grade II listed).

George Hotel, Castleton – large marquee-type structure within curtilage of grade II listed building and within Conservation Area. Harmful impact on listed building and Conservation Area due to siting, design and materials of construction.

Old Hall Hotel, Hope – grade II listed building and Conservation Area – same issues as with George Hotel. This one has now been removed but it is an example of a structure that would be Permitted Development.

Millstone Inn, Hathersage – timber building on car park serving takeaway food and drinks. Not listed or in Conservation Area but has a harmful effect on the locality due to siting, design and materials of construction.

Should you require more information on these examples, please contact us.

Q3) Public Sector Equality Duty and Q4) Impact Assessment

We are required to assess these proposals by reference to the Public Sector Equality Duty contained in the Equality Act 2010. A Public Sector Equality Duty Assessment and an impact assessment will be prepared reflecting the detail of the changes to be made prior to any secondary legislation being laid.

We would welcome your comments as part of this consultation on whether any of the proposed consequential changes 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).

Q.3. Do you think that any of the proposed changes in relation to the future of the time-limited permitted development rights could impact on: a) businesses b) local planning authorities c) communities

Please select only one item

☒ Yes ☐ No ☐ Don't know

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 and which right or rights they particularly relate to:

It might positively impact on businesses because it allows them to extend their offer.
It might negatively impact on local communities for the reasons described in 2b

Q.4. Do you think that any of the proposed changes in relation to the future of the time-limited permitted development rights 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).

Please select only one item

☐ Yes ☒ No ☐ Don't know

If so, please give details and specify which right/s any comment relates to:

Q5) - Q15) Supporting Defence infrastructure

Q.5. Do you agree that new rights should be created that will enable MOD to develop more single living accommodation within the perimeter of their sites up to 25% of the existing floorspace for single living accommodation at a Defence site to support service personnel?

Please select only one item

☐ Yes ☐ No ☐ Don't know

Please give your reasons:

Q.6. Do you agree that new rights should be created that will enable MOD to develop other types of workspace up to 35% of the existing floorspace within the perimeter of their sites?

Please select only one item

☐ Yes ☐ No ☐ Don't know

Please give your reasons:

Q.7. Do you agree that supporting the redevelopment of Defence assets and Defence bases will provide an opportunity for new jobs in regions across the UK and will underpin Defence's active role in communities across the UK?

Please select only one item

☐ Yes ☐ No ☐ Don't know

Please give your reasons:

Q.8. Do you agree that the permitted development rights should be applied to the wide range of buildings needed by MOD?

Please select only one item

☐ Yes ☐ No ☐ Don't know

Please give your reasons:

Q.9. Do you agree that a greater percentage should apply for the workspace provision?

Please select only one item

☐ Yes ☐ No ☐ Don't know

Please give your reasons:

Q.10. Do you think restricting the location of development to 15m from the perimeter of the military site is sufficient or would a greater distance be better?

Please select only one item

☐ Yes ☐ No ☐ Don't know

Please give your reasons:

Q.11. Do you think there is scope to raise the 4000 sqm footprint trigger for prior approval on the very largest operational military sites? Please suggest what would be an appropriate alternative limit, and give your reasons.

Please select only one item

☐ Yes ☐ No ☐ Don't know

Please give your reasons:

Q.12. Do you agree that locating taller buildings together would be a good idea?

Please select only one item

☐ Yes ☐ No ☐ Don't know

Please give your reasons:

Q.13. Do you think that the exercise of the permitted development rights in flood risk zones should be subject to prior consultation?

Please select only one item

☐ Yes ☐ No ☐ Don't know

Please specify which bodies should be consulted:

Q.14. Do you think that the exercise of permitted development rights in relation to sites with land contamination should be subject to prior consultation?

Please select only one item

☐ Yes ☐ No ☐ Don't know

Please specify which bodies should be consulted:

Q.15. Do you think it is appropriate that SSSI, Article 2(3) land, listed buildings and Scheduled Monuments should be excluded from the permitted development rights?

Please select only one item

☒ Yes ☐ No ☐ Don't know

Please give details if you think it is appropriate or if not:

Yes, it is important that National Parks and the Broads (and other protected land and buildings) are excluded from permitted development rights for the reasons listed at 2a and 2b, ie impact on valued character and inappropriate design.

Q16) Public Sector Equality Duty and Q17) Impact Assessments

We are required to assess these proposals by reference to the Public Sector Equality Duty contained in the Equality Act 2010. A Public Sector Equality Duty Assessment and an impact assessment will be prepared reflecting the detail of the changes to be made prior to any secondary legislation being laid.

We would welcome your comments as part of this consultation on whether any of the proposed consequential changes 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).

Q.16. Do you think that any of the proposed changes in relation to permitted development rights for Defence could impact on: a) businesses b) local planning authorities c) communities?

Please select only one item

☐ Yes ☐ No ☐ Don't know

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 and which right or rights they particularly relate to.

Q.17. Do you think that any of the proposed changes in relation to permitted development rights for Defence 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).

Please select only one item

☐ Yes ☐ No ☐ Don't know

If so, please give details and specify which right/s any comment relates to: