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**Supporting housing delivery and public infrastructure**

Consultation Response

January 2021

By email to

[PublicServiceInfrastructure&PermittedDevelopmentConsultation@communities.gov.uk](mailto:PublicServiceInfrastructure&PermittedDevelopmentConsultation@communities.gov.uk)

**Key Concerns**

**New permitted development right to change use from Commercial, Business and Service (Class E) to residential (C3)**

Bath Preservation Trust is aware of the challenges facing the high street and is actively working to sustain and enhance the historic commercial character, community and amenity of local areas.

Like others we are specifically concerned that unlike some of the recent changes to permitted development, this consultation proposes that the new right would apply in conservation areas. Diversity is critical to the vitality and vibrancy of historic towns and shopping streets. The current planning system enables a range of uses that sustains the character, amenity and community of towns, rather than allowing a profitable single use to dominate.

We cannot support this policy which would risk:

* Leading to the loss of historic character within our conservation areas through inappropriate development and unsympathetic alterations.
* Harming the diversity and vitality of our high streets, town, and city centres.
* Facilitating the creation of poor-quality homes and living environments.

A major concern for Bath Preservation Trust is the potential broadening of PDR for land and properties within conservation areas. In current planning legislation, this land generally receives exemptions from PDR and, therefore, greater protections, for valid reasons to ‘preserve or enhance’ the special architectural or historic interest of the conservation area.

We do not support a review of the legislation leading to widening of the PDR to include any land within conservation areas and we seek unambiguous confirmation that Article 2(3) land in urban World Heritage Sites will also be excluded from the PDR.

**Supporting public service infrastructure through the planning system**

We strongly object to the proposed reduction in the statutory public consultation period for major public service infrastructure development to 14 days.

Critical public service infrastructure development must be subject to an efficient and effective consultation process. Reducing public consultation to 14 days for major developments (which could be up to 5 hectares in size) is not the right way to achieve this.

We cannot support the change to the consultation period unless there are standards for effective and meaningful engagement with the local community on major developments. By ‘effective and meaningful’ we mean that such consultation could result in change to the plans.

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

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

|  |  |
| --- | --- |
| Agree |  |
| Disagree | X |
| Don't know |  |

Please give your reasons:

|  |
| --- |
| No. BPT objects to this change to permitted development rights in principle.  See answer to question 5 below. |

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

|  |  |
| --- | --- |
| Agree | X |
| Disagree |  |
| Don't know |  |

Please give your reasons:

|  |
| --- |
| Yes. It should also not apply to Conservation Areas. |

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

|  |  |
| --- | --- |
| Agree |  |
| Disagree | X |
| Don't know |  |

Please give your reasons:

This deregulation exposes these sensitive areas to the very real risk of developers exploiting the loopholes. A limited list of prior approval matters may not necessarily secure a high-quality residential environment or vibrant and diverse towns. The Government's own commissioned report has concluded that permitted development rights create “worse-quality residential environments”. Based on an analysis of permitted development schemes across 11 local planning authorities, [the report found that](https://civicvoice.us5.list-manage.com/track/click?u=5128291c803f66657704671f8&id=1f7289d293&e=6c48f08b78) just 22.1% of homes created through PDR meet national space standards, compared with 73.4% delivered through full planning permission.

|  |
| --- |
| No. BPT cannot support the proposed change to allow properties in Class E use within conservation areas, to change use to housing (C3 use) without the need for a planning application. Conservation areas have been designated locally because they are “areas of special architectural or historic interest, the character and appearance of which it is desirable to preserve or enhance” (s69 Planning (Listed Buildings and Conservation Areas) Act 1990).  Planning controls have existed and have been strengthened over the past 100 years to sustain this ‘special interest’.  We are concerned that widening the current permitted development rights in conservation areas to allow such changes of use could undermine current protections and threaten the special interest and character and appearance of conservation areas.  Many of these Class E uses located within historic high streets, town and city centres, contribute to the character of our most treasured historic areas. Conservation areas are continually evolving and the story of change is part of the character of places. We acknowledge the benefits of housing within historic high streets, utilising under used space and and living over the shop, and creating living communities which supports the viability and diversity of towns and cities. However, we strongly believe this should come through a process of managed change, considered through the standard planning application process, not through permitted development. This route would be consistent with the proposals in the Planning White Paper for conservation areas to be classed as Protected Areas.  We acknowledge the proposal in the consultation to allow local authorities to consider the impact of the loss of the ground floor use to residential for permitted development prior approval applications in conservation areas, but we do not consider this provision to be sufficient to prevent inappropriate development in conservation areas.  We do not consider this provision to be sufficient to prevent inappropriate development in conservation areas, such as inappropriate alterations to buildings/heritage assets associated with the change of use e.g. unsympathetic windows, materials or detailing. |

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

|  |  |
| --- | --- |
| Agree |  |
| Disagree | X |
| Don't know |  |

Please give your reasons:

|  |
| --- |
| Town and city centres, high streets, and local shopping areas, are undoubtedly undergoing changes because of our growing online shopping habits, and the Covid-19 pandemic.  Understanding the long term or permanent impact of this change will take time. It is likely that in the short and medium terms town centres will need to diversify and the current extent of primary retail on the ‘high street’ be reduced. However, BPT considers these issues, and the degree of retail shrinkage, needs to be tackled through a process of managed change, finding positive solutions to support the diversification, vitality and viability of the ‘high street’.  If this PD right is introduced, prior approval of the impact of the loss of ground floor use to residential and ‘active frontage’ should be required in all cases, not just in conservation areas.  If this PD right is introduced we consider the impact of loss of ground floor use to residential should be considered for all prior approval applications, to allow local planning authorities to consider the impact and prevent a free for all of opportunistic conversions throughout our high streets and centres. Which could be very damaging and lead to a fragmented ‘high street’.  A wholescale review of the high street, town or city centre would be more appropriate way of managing this period of rapid and dramatic change. |

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

|  |  |
| --- | --- |
| Agree |  |
| Disagree | X |
| Don't know |  |

Please give your reasons:

|  |
| --- |
| No. This deregulation exposes these sensitive areas to the very real risk of developers exploiting the loopholes. A limited list of prior approval matters may not necessarily secure a high-quality residential environment or vibrant and diverse towns. The Government's own commissioned report has concluded that permitted development rights create “worse-quality residential environments”. Based on an analysis of permitted development schemes across 11 local planning authorities, [the report found that](https://civicvoice.us5.list-manage.com/track/click?u=5128291c803f66657704671f8&id=1f7289d293&e=6c48f08b78) just 22.1% of homes created through PDR meet national space standards, compared with 73.4% delivered through full planning permission.  The risk is that if this new PD right is introduced it would go wider than the office to residential conversions enabling a much greater range of uses to change and the impacts could, therefore, be much greater and more harmful in sensitive historic centres characterised by their commercial uses.  BPT considers a limited list of prior approval matters will not secure a high-quality residential environment for the occupants, or create vibrant and diverse high streets. It is impossible to legislate for every circumstance.  For this reason, we cannot support this policy. |

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

|  |  |
| --- | --- |
| Yes | X |
| No |  |
| Don't know |  |

Please specify:

|  |
| --- |
| BPT objects to the proposed policy.  However, if the Government intends to implement the proposed new PD right, we consider the following prior approval matters should also be included:   * Impact assessment for the loss of ground floor use and ‘active frontage’ to residential. * Residential amenity of future occupiers of the property and neighbouring properties. We acknowledge that the proposed prior approval matters include, noise, natural light and fire safety, but suggest this goes further to include outlook from windows for habitable rooms not just light, privacy and overlooking, and external amenity space. * Design of any changes to the external appearance of the building. * Servicing to include provision of storage for waste, recycling and bikes.   BPT supports the proposal in Para. 13 that all homes would be required to meet the nationally described space standards. This must be a prior approval matter. |

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

|  |  |
| --- | --- |
| Agree | X |
| Disagree |  |
| Don't know |  |

Please give your reasons:

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| --- |
| Yes. The prior approval process would still add administrative cost to the local authority. |

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

|  |  |
| --- | --- |
| Yes |  |
| No |  |
| Don't know | X |

Please give your reasons:

|  |
| --- |
| It should not be any less than the fees for a prior approval application or change of use application to a dwelling house. |

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

|  |  |
| --- | --- |
| Yes | X |
| No |  |

Please specify:

|  |
| --- |
| BPT strongly objects to the proposal in principle because of the harmful impact it could have on the established character of our high streets, town and city centres, and the special interest of conservation areas; and the opportunity it provides for the creation of poor-quality homes.  Town and city centres, high streets, and local shopping areas, are undergoing serious challenges and changes because of our growing online shopping habits, and the Covid-19 pandemic. However, BPT considers these issues, and the degree of retail shrinkage, needs to be tackled through a process of managed change that finds positive solutions to support the diversification, vitality and viability of the ‘high street’. Not through PD, but through the planning application and placemaking routes which would be consistent with the proposals in the Planning White Paper for conservation areas to be classed as Protected Areas.  It is desirable to bring more residential use and community into town centres, but in areas where residential values often outweigh the value of other uses there is a danger that this change could permanently destroy the essential local function and character of town centres and local high streets, at a time when ‘shopping local’ has become increasingly important.  However, we are not convinced by the claim that these proposals will breathe new life into high streets, and town and city centres. We are extremely concerned that instead these proposals, and the continued expansion of permitted development rights (PDR) in England, will make it much easier to change to the most profitable use, ultimately this is residential.  We are particularly concerned that the proposed widening of PD rights will lead to opportunistic conversions rather a planned approach to diversification, leading to the fragmentation and mono-use within our town centres. This could, in turn, undermine the viability of commercial activities on parts of the high street, contrary to the Government’s objectives.  The proposed changes to permitted development rights would effectively prevent local planning authorities from planning positively and creatively to facilitate change and the adaptation of town and city centres and local high streets, which enables a greater diversity in the range of uses.  There are many unlisted or locally listed buildings within conservation areas that might be able to change use to housing if the new PD right was introduced. The use and appearance of these locally important heritage assets in our historic high streets, town, and city centres, contribute fundamentally to the character of conservation areas. We are seriously concerned that widening the current permitted development rights in conservation areas to allow such changes of use, without the need for a planning application, would undermine current protections and threaten the ‘special interest’ i.e. the reason why conservation areas have been designated in the first place.  We acknowledge the proposal in the consultation to allow local authorities to consider the impact of the loss of the ground floor use to residential for permitted development prior approval applications in conservation areas, but we do not consider this provision to be sufficient to prevent inappropriate development in conservation areas, such as inappropriate alterations to the frontage of property associated with the change of use e.g. unsympathetic windows, materials or detailing. |

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

|  |  |
| --- | --- |
| Yes | X |
| No |  |
| Don't know |  |

If so, please give your reasons:

|  |
| --- |
| Yes. We believe the proposed PD right would have a negative impact on business, communities and local planning authorities.  Random and unmanaged change risks erosion of local commercial uses which would lead to a less attractive and viable town centre or local shopping street. Planning controls have existed for 100 years to sustain a healthy mix of uses. Communities could also suffer through loss of local amenity. The local planning authority would lose its ability to plan positively and creatively in the interest of sustaining and enhancing conservation areas and revitalising Heritage Action Zones. Irreversible changes to permanent residential uses would lead to a long-term loss of diversity.  Such a level of PDR potentially undermines the ability of communities to have a voice in the future of their area. It is unclear from the consultation whether communities would be able to comment on prior approval applications, and what level of publicity would be undertaken or timescales for consultation. In any case, the type and range of issues communities could meaningfully comment upon would be limited to the prior approval matters, which we do not consider to be sufficient.  LPAs may benefit from a reduced number of planning applications but resources would still need to be directed towards validating the conditions of prior approval.  We are concerned about the potential impact of these proposals on the people who will have to live with the consequences – an unhealthy mix of uses in denser, over-populated town centres, and greater unsustainable travelling distances to out of town amenities. |

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

|  |  |
| --- | --- |
| Yes | X |
| No |  |
| Don't know |  |

If so, please give your reasons:

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| --- |
| Yes. Loss of local shops and services would have a negative impact on the elderly and people with poor mobility and people on low incomes who are unable to afford to travel to town centres or out of town shopping areas/retail parks.  The Public Sector Equality Duty Assessment and impact assessment should acknowledge that the proposals will have an adverse impact on local people, by depriving them of the ability to comment on, or object to, the loss of facilities that they may value. |

**Supporting public service infrastructure through the planning system**

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

|  |  |
| --- | --- |
| Agree |  |
| Disagree | X |
| Don't know |  |

Please give your reasons:

|  |
| --- |
| No. The development could have an impact on a surrounding conservation area and therefore should be subject to planning process. Any permitted development should require prior approval of design, particularly in conservation areas. |

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

|  |  |
| --- | --- |
| Agree |  |
| Disagree |  |
| Don't know | X |

Please give your reasons:

|  |
| --- |
| The development could have an impact on a surrounding conservation area and therefore should be subject to planning process. Any permitted development should require prior approval of design, particularly in conservation areas. |

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

|  |  |
| --- | --- |
| Yes |  |
| No |  |
| Don't know | X |

Please specify:

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| --- |
|  |

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

|  |  |
| --- | --- |
| Agree |  |
| Disagree |  |
| Don't know | X |

Please give your reasons:

|  |
| --- |
|  |

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

|  |  |
| --- | --- |
| Yes | X |
| No |  |

Please specify:

|  |
| --- |
| The development could have an impact on a surrounding conservation area and therefore should be subject to planning process. Any permitted development should require prior approval of design, particularly in conservation areas.  There should be a requirement that any business, including educational establishments, must be able to demonstrate significant public benefit in order to benefit from any permitted development rights afforded to public services.  The Government’s aim should be to ensure that schools, colleges, universities, hospitals and prisons engage publicly and openly with the community at the earliest stage when they are considering expansion. |

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

|  |  |
| --- | --- |
| Yes |  |
| No |  |
| Don't know | X |

If so, please give your reasons:

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

|  |  |
| --- | --- |
| Yes |  |
| No |  |
| Don't know | X |

If so, please give your reasons:

|  |
| --- |
| It depends on the nature and location of the scheme. We suggest to meet this problem that there should be a prior approval requirement for the local planning authority to judge the impact on people who share a protected characteristic. |

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

|  |  |
| --- | --- |
| Yes | X |
| No |  |
| Don't know | X |

If so, please give your reasons:

|  |
| --- |
|  |

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

|  |  |
| --- | --- |
| Yes |  |
| No |  |
| Don't know | X |

If so, please give your reasons:

|  |
| --- |
| It depends on the nature and location of the scheme. We suggest to meet this problem that there should be a prior approval requirement for the local planning authority to judge the impact on people who share a protected characteristic. |

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

|  |  |
| --- | --- |
| Yes |  |
| No | X |

Please give your reasons:

|  |
| --- |
| We object to the reduction of the statutory consultation period for these schemes from 21 to 14 days, as a means of speeding up the process. We cannot believe that a week’s delay materially affects outcomes. For this reason we cannot support the proposal. |

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

|  |  |
| --- | --- |
| Yes | X |
| No |  |

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

|  |
| --- |
| The development could have an impact on a surrounding conservation area and therefore should be subject to planning process. Any permitted development should require prior approval of design, particularly in conservation areas.  There should be a requirement that any business, including educational establishments must be able to demonstrate significant public benefit in order to benefit from any permitted development rights afforded to public services.  The Government’s aim should be to ensure that schools, colleges, universities, hospitals and prisons engage publicly and openly with the community at the earliest stage when they are considering expansion. |

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

|  |  |
| --- | --- |
| Yes |  |
| No | X |

Please give your reasons:

|  |
| --- |
| No. These are complex applications and the existing 13-week period is more appropriate. A reduction of 3 weeks in the timetable of overall project delivery will not make a material difference to the developer. |

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

|  |  |
| --- | --- |
| Yes |  |
| No | X |

Please give your reasons:

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| --- |
| No. 14 days is too short for consultation on such major proposals, and the existing 21-day period should be retained. There would also be a risk of unscrupulous people submitting applications that coincide with holiday periods in order to evade scrutiny. From many years of experience of engaging with planning applications we notice this in August and December.  It may impact particularly on people with protected characteristics - those with sight or mental impairments may require longer than others to have the implications of complex proposals explained to them. |

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

|  |  |
| --- | --- |
| Yes |  |
| No | X |

Please give your reasons:

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| --- |
| No. This adds unnecessary bureaucracy to already under resourced and understaffed local planning authorities. |

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

|  |  |
| --- | --- |
| Yes | X |
| No |  |

Please give your reasons:

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| --- |
| Yes. However, the requirement to work proactively to resolve key issues before planning applications are submitted should also apply to those public service providers. Proactive planning requires resources in people and skills, and this needs to be reflected in enhanced budgets for local planning authorities. |

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

|  |  |
| --- | --- |
| Yes | X |
| No |  |

Please specify:

|  |
| --- |
| Changes to the approved applications are often sought in advance of, or during, construction. These may be minor, and easily granted, but they may make significant changes which need proper public consultation. The local planning authority must not be blamed for consequent delay, and as well as monitoring local planning authorities’ performance the Government should monitor the performance of the body (often itself in the public sector) that is making the application, to see if delay is caused by its own inefficiencies or frequent changes of mind. |

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

|  |  |
| --- | --- |
| Yes | X |
| No |  |

Please specify:

|  |
| --- |
| We welcome a renewed emphasis on effective pre-app engagement, but such engagement is not just internal discussions between the applicant, local authority and statutory consultees. For major developments it must involve local stakeholders and the local community.  The best way to prioritise all major development applications would be to restore the LPA budget cuts and improve investment in resources, skills and technology. |

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

|  |  |
| --- | --- |
| Yes | X |
| No |  |

If so, please give your reasons:

|  |
| --- |
| No. 14 days is too short for consultation on such major proposals, it may impact particularly on people with protected characteristics - those with sight or mental impairments may require longer than others to have the implications of complex proposals explained to them. |

**Consolidation and simplification of existing permitted development rights**

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

|  |  |
| --- | --- |
| Agree |  |
| Disagree |  |
| Don't know | X |

Please give your reasons:

|  |
| --- |
| There is not enough detail to comment on the proposed changes to the legislation. This area of planning legislation is complex and for community groups to understand the potential impacts, and it is important that the government consults upon the detail.  A major concern for BPT is the potential broadening of PD rights for land or properties within conservation areas. In legislation, this land generally receives exemptions from PD rights and, therefore, greater protections, for valid reasons to ‘preserve or enhance’ the special architectural or historic interest of the conservation area.  We would not support a review of the legislation leading to widening of the PD rights to include land and properties within conservation areas. |

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

|  |  |
| --- | --- |
| Yes |  |
| No | X |

Please specify:

|  |
| --- |
| Not sure. |

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

|  |  |
| --- | --- |
| Agree | X |
| Disagree |  |
| Don't know |  |

Please give your reasons:

|  |
| --- |
| Yes, subject to special protections for conservation areas, in particular, allowing local planning authorities to consider the design of any changes to the external appearance of the building. See our comments set out in response to question 2.2 |

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

|  |  |
| --- | --- |
| Agree |  |
| Disagree |  |
| Don't know | X |

Please give your reasons:

|  |
| --- |
| There is not enough detail to comment on the proposed changes to the legislation. This area of planning legislation is complex and for community groups to understand the potential impacts, and it is important that the government consults upon the detail. |

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

|  |  |
| --- | --- |
| Yes |  |
| No | X |

Please specify:

|  |
| --- |
| There is not enough detail to comment on the proposed changes to the legislation. This area of planning legislation is complex and for community groups to understand the potential impacts, and it is important that the government consults upon the detail. |

**End of survey**

You have reached the end of the consultation questions. Thank you for taking the time to complete them and for sharing your views. Please note that you will not receive an automated email to confirm that your response has been submitted.   
  
After the consultation closes on 28 January 2021 we will consider the responses we have received and publish a response, in due course.