

27 MARCH 2023

PR3-23 | PERMITTED DEVELOPMENT RIGHTS

Introduction

We are writing in response to the government's consultation on permitted development rights.

The National Association of Local Councils (NALC) is the national membership body that works with the 43 county associations of local councils to represent and support England's 10,000 local (parish and town) councils.

Local councils and their 100,000 councillors are the first tier of local government, closest to the people, and play an essential part in delivering hyper local services, building strong communities, and strengthening social fabric.

Local councils cover two thirds of England and a third of the population and invest over £3 billion per year to improve and strengthen communities.

Summary

NALC's headline positions on permitted development rights are as below:

- NALC does not support an across-the-board extension of permitted development rights in the planning system. Policies on permitted development rights (PDRs) should be the prerogative of Local Authorities (LAs) in their Local Plans or Neighbourhood Planning Groups.
- NALC supports that Assets of Community Value be subject to the removal of Permitted Development Rights by imposing Article 4. An article 4 direction is made by the local planning authority. It restricts the scope of permitted development rights either in relation to an area or site, or a development anywhere in the authority's area.
- Permitted development rights should play a minimal role in the planning system because every place is different and the circumstances surrounding it are different.
- Removing the right of local authorities to make decisions on planning applications and that of local councils to comment on them constitutes a further loss of democratic input.

Overarching policy statement

In October 2020 NALC included the below overarching planning policy statement in its response to the three main Planning White Paper consultations launched that summer – these positions still hold true in response to this consultation:

1. NALC has signed up to the proposition that there is a climate emergency and will therefore, as a general principle, promote and support moves and policies which help to mitigate it. For instance, NALC supports the need for Local Plans and large developments to be subject to environmental appraisals and it supports energy efficient homes and more trees.
2. NALC will support a planning system which incorporates a significant role for local (parish and town) councils. It will not support any diminution of local councils' statutory right to comment on planning issues at all stages of their evolution, whether they be development planning matters or spatial planning policies.
3. NALC will support a soundly based planning system which represents the most reliable tool for the sustainable allocation of land, and which represents the three pillars of sustainability equally, i.e., social, economic, and environmental factors.
4. NALC will support changes to the planning system which it perceives will strengthen the system and the voice of democracy and lead to better quality, appropriately sited developments. It will not support planning changes which it perceives will work in the opposite direction.
5. NALC would support a very much strengthened version of the 'duty to co-operate' between neighbouring local authorities or an alternative policy which made it compulsory for neighbouring LAs to work in close co-operation with each other on spatial planning.
6. NALC does not support an across-the-board extension of permitted development rights in the planning system. Policies on permitted development rights should be the prerogative of LAs in their Local Plans or Neighbourhood Planning Groups.
7. NALC supports the recommendations of the Building Better, Building Beautiful Commission.
8. NALC recognises the need for more affordable housing and would welcome initiatives that would enable LAs and local councils to deliver some. In addition, NALC would like to see more housing delivered that is suitable for the disabled and those with mobility impairments and a range of different types of tenures facilitated.
9. NALC wants to see a fair infrastructure levy system which gives local councils a voice and benefits them financially so that they in turn can deliver more for their local communities.

10. NALC has concerns about housing tests based on standard methodologies/ algorithms. It wants to see a planning system which recognises that every planning application and every location is different.

Consultation questions

NALC's responses to the main consultation questions applicable to local councils in the consultation document are below:

2. A new permitted development right for temporary recreational campsites

Q1. Do you agree that a new permitted development right should be introduced that will allow the temporary use of land for recreational campsites and associated facilities?

A1. No. NALC maintains that permitted development rights should play a minimal role in the planning system and that they should remain the prerogative of local authorities.

Q.2: Do you agree that the permitted development right should only apply to the placing of tents?

A2. Don't know. More evidence is needed.

Q.3: Do you agree that the permitted development right should allow up to a maximum of 30 tents to be erected on the land?

A3. Don't know. More evidence is needed.

Q.4: Do you agree that the permitted development right should be limited to up to 60 days per calendar year?

A.4: Don't know. More evidence is needed.

Q.5: Do you agree that the permitted development right should require the provision of temporary on-site facilities to provide waste disposal, showers and toilets?

A.5: Don't know. More evidence is needed.

Q.6: Do you agree that the permitted development right should not apply on land which is in or forms part of sites of special scientific interest, Scheduled Monuments, safety hazard areas, military explosives storage areas and land within the curtilage of a listed building?

A.6: Yes. These decisions should be delegated to local authorities who have a better sense of the local landscape.

Q.7: Are there any other planning matters that should be considered?

A.7: Yes. The impact this new permitted development right could have on the long-term vision local authorities have set out in their local and neighbourhood plans.

Q.8: Do you agree that the permitted development right should require annual prior notification to the local authority of the matters set out above?

A.8 Yes, local authorities and neighbourhood planning groups should always be consulted with regards to PDRs.

Q.9: Do you think that, in areas of flood risk, the right should allow for prior approval with regard to flooding on the site?

A9. Yes. PDRs should be the prerogative of local authorities and tailored to the local circumstances.

Q.10: Do you think that any of the proposed changes in relation to a new permitted development right for temporary recreational campsites could impact on: a) businesses b) local planning authorities c) communities?

A10. Yes. It will impact on local planning authorities' use of various land within their remit. The local knowledge that goes into designing neighbourhood plans is overridden through permitted development rights and this happens nationally.

Q.11: Do you think that proposed changes in relation to a new permitted development right for temporary recreational campsites 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).

A11. Don't know.

3. Permitted development rights for solar equipment on and within the curtilage of domestic and non-domestic buildings

Q.12: Should the permitted development right for solar on domestic rooftops be amended so that they can be installed on flat roofs where the highest part of the equipment would be no higher than 0.6 metres above the highest part of the roof (excluding any chimney)?

A12. No. NALC opposes the expansion of permitted development rights and recommends that local authorities be consulted on these matters.

Q13. Are there any circumstances where it would not be appropriate to permit solar on flat roofs of domestic premises?

A13. Don't know. More evidence is required.

Q14. Do you agree that solar on a wall which fronts a highway should be permitted in conservation areas?

A14. Don't know. NALC does however support the wider use of renewable energy, in particular solar power.

Q15. Do you have any views on the other existing limitations which apply to this permitted development right which could be amended to further support the deployment of solar on domestic rooftops?

A15. Don't know. More evidence is needed.

Q16. Do you agree that the existing limitation which prevents stand-alone solar being installed so that it is closer to the highway than the dwellinghouse in conservation areas, should be removed?

A16. No. These cases should be dealt with by local authorities in a locally informed case-by-case basis.

Q17. Do you have any views on how the other existing limitations which apply to this permitted development right could be amended to further support the deployment of stand-alone domestic solar?

A17. Don't know. More evidence is needed.

Q18. Do you agree that the current threshold permitting the generation of up to 1MW of electricity on non-domestic buildings should be removed?

A18. Don't Know. More sector specific evidence is required.

Q19. Is the current prior approval for solar equipment on non-domestic rooftops (where equipment is over 50kW but no more than 1MW) effective?

A19. Don't know. More sector specific evidence is required.

Q20. Are there any circumstances where it would not be appropriate to allow for the installation of non-domestic rooftop solar where there is no limit on the capacity of electricity generated?

A20. Don't know. More evidence is needed.

Q21. Do you agree that the existing limitations relating to the installation of solar on non-domestic buildings in article 2(3) land - which includes conservation areas, Areas of Outstanding Natural Beauty, the Broads, National Parks and World Heritage Sites – should be removed?

A21. No, these should be considered on a case-by-case basis at the local level. NALC does however encourage the wider use of solar energy.

Q22. Do you have any views on how the other existing limitations which apply to the permitted development right could be amended to further support the deployment of solar on non-domestic rooftops?

A21. Don't know. More evidence of impact is required.

Q23. Do you agree that the existing limitation which prevents stand-alone solar being installed so that it is closer to the highway than the building in article 2(3) land - which includes conservation areas, Areas of Outstanding Natural Beauty, the Broads, National Parks and World Heritage Sites – should be removed?

A23. No. The existing limitations should be retained.

Q24. Do you have any views on how the other existing limitations which apply to this permitted development right could be amended to further support the deployment of stand-alone non-domestic solar?

A24. Don't know. More evidence is required.

Q25. Do you agree that permitted development rights should enable the installation of solar canopies in ground-level off-street car parks in non-domestic settings?

A25. No. These decisions should be the prerogative of local authorities.

Q26. Do you agree that a permitted development right for solar canopies should not apply on land which is within 10 metres of the curtilage of a dwellinghouse?

A26. Don't know. More evidence is needed.

Q27. Do you agree that a permitted development right for solar canopies should not apply on land which is in or forms part of a site designated as a scheduled monument or which is within the curtilage of a listed building?

A27. Don't know. More evidence is needed.

Q28. Do you agree that the permitted development right would not apply to article 2(3) land - which includes conservation areas, Areas of Outstanding Natural Beauty, the Broads, National Parks and World Heritage Sites?

A28. Yes. Local authorities should be able to take those planning decisions using their local knowledge.

Q29. Do you agree that solar canopies should be permitted up to 4 metres in height?

A29. Don't know. More evidence is needed.

Q30. Do you think that the right should allow for prior approval with regard to design, siting, external appearance and impact of glare?

A30. Yes. Local authorities should be able to assess the impact of the installation within the context of their Local Plans.

Q31. Are there any other limitations that should apply to a permitted development right for solar canopies to limit potential impacts?

A31. Don't know. More evidence is needed.

4. Providing further flexibility to allow local authorities to undertake development

Q34. Do you agree that the permitted development right allowing for development by local authorities should be amended so that the development permitted can also be undertaken by a body acting on behalf of the local authority?

A34. Yes. Local (parish and town) councils should be able to act on behalf of the local authority, as needed, where the development permitted is complemented by the Local Plan and the relevant neighbourhood plan.

For further information on this response contact Fflur Jones via email at fflur.jones@nalc.gov.uk or policycomms@nalc.gov.uk.