

25 APRIL 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 does not support an across-the-board extension of permitted development rights (PDRs) in the planning system. Policies on PDRs should be the prerogative of local authorities (LAs) in their Local Plans
- 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 PDRs either in relation to an area or site, or a development anywhere in the authority's area.
- PDRs 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 Community infrastructure levy (CIL) 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 PDRs should play a minimal role in the planning system and that they should remain the prerogative of local authorities. For example, the ad-hoc establishment of a tented campsite close to a conglomeration of people at a particular location could cause issues if a local planning authority with local knowledge is not consulted.

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

**A2.** No. Even a temporary campsite requires a safe access, toilet, washing, parking, waste collection and other facilities, plus the consideration of any potential harm to the environment, livestock and wildlife as well as impacts on any nearby properties and their inhabitants. Local planning authorities and local councils would be in a better position to assess the impact of each proposal on a case-by-case basis.

##### **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?**

**A.3:** No. We do not agree that this permitted development right should allow up to a maximum of 30 tents to be erected on the land. Thirty tents, depending on their size, could accommodate a lot more than 30 people and present a potential hazard and/or nuisance if not properly assessed and monitored. Local planning authorities and local councils would be in a better position to assess the impact of each proposal on a case-by-case basis.

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

**A.4:** No. We do not agree with the proposal that there should be temporary campsites that are not controlled by the planning system for any length of time. Local planning authorities and local councils would be in a better position to assess the impact of each proposal on a case-by-case basis.

**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:** Temporary camp sites must be required to have safe access and to provide toilet, washing, parking and waste facilities as a minimum. This should be not as part of a permitted development right, but as a condition of a planning application. NALC does not agree with the proposition that temporary camp sites – of any size – should be allowed anywhere unless they are approved through a formal planning process. Furthermore, no permanent provision should be installed. There is a risk that a permanent provision would tempt owners to maximise the use of time investment and thus exceed the permitted time limits.

**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:** NALC does not agree with the proposition that temporary camp sites – of any size – should be allowed anywhere unless they are approved through a formal planning process. These decisions should be delegated to local authorities who have a better sense not only of the local landscape but of all the relevant local factors which might have a bearing. We would also suggest that safeguards and restrictions are put in place regarding conservation areas due to the impact on flora and fauna for example as well as within built-up areas as it could heavily impact people living there.

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

**A.7:** With all matters pertaining to land use – permanent or temporary – there are a huge range of factors that need to be considered. This is why it is so important that temporary camp sites are handled through a formal planning process which takes into consideration everything from adopted and emerging Neighbouring Plans to special designations and impacts on people, flora and fauna.

**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.** NALC does not support an extension of permitted development rights. Regarding the issue of prior notification, we suggest that where prior notification occurs, it should be accompanied by a requirement for the local planning authority to consult the relevant local council, and possibly other statutory consultees.

**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.** NALC does not support an extension of permitted development rights. Issues such as flood risk must be considered as part of a proper planning process.

**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. A permitted development right for a temporary recreational campsite has the potential to have a detrimental impact not only on local planning authorities and the use of land within their remit, but on the environment, livestock and wildlife as well as on businesses and communities. As matters currently stand, the local knowledge that goes into designing neighbourhood plans is frequently overridden through permitted development rights, housing targets and other factors. It would be wrong to introduce further changes which undermine the neighbourhood planning process which the government has committed to protect and strengthen, and potentially cause a nuisance to communities or businesses.

**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.** There is a potential for impacts on those with mobility impairments if they encounter problems caused by access to the temporary site and/or inconsiderate parking.

**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.** NALC does not support the expansion of permitted development rights with no restrictions. It does support the use of solar panels on flat industrial and commercial rooftops and on multi-storey car parks.

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

**A13.** There could be a weight issue or issues around reflected light impacting higher buildings nearby.

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

**A14.** No. Local councils should retain control since only they can have an informed overview of the impact of any given solar installation on the fragility and natural beauty of the conservation area. Additionally, there could be issues around reflected light impacting the highway.

**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.** On domestic properties, solar should merely be encouraged where it does not have any deleterious impacts.

**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. NALC does not support the expansion of permitted development rights with no restrictions and is not convinced that the taking of land for 'stand-alone solar' is appropriate. Land is a finite resource.

**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. There should not be any automatic right for stand-alone solar to be erected. It must be subject to the planning system.

**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. NALC does not support the expansion of permitted development rights with no restrictions. Most especially, we would have concerns about any weakening of the planning system in specially protected areas.

**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. NALC does support the concept of deploying more solar on non-domestic flat rooftops - but the issue of glare must be considered on all sloping rooftops.

**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.** There should not be any automatic right for stand-alone solar to be erected. It must be subject to the planning system.

**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. Ground level off-street parking might well be overlooked by taller residential buildings which might be affected by glare.

**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.** Solar canopies can be tilted or flat and can vary in size. There should be no automatic right to erect them as they could have impacts on their surroundings which need to be considered through the planning system.

**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.** Solar canopies can be tilted or flat and can vary in size. There should be no automatic right to erect them as they could have impacts on their surroundings which need to be considered through the planning system.

**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.** Solar canopies can be tilted or flat and can vary in size. There should be no automatic right to erect them as they could have impacts on their surroundings which need to be considered through the planning system.

**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.** There should be no permitted development right for solar canopies. Solar canopies can be tilted or flat and can vary in size. Their use should be controlled by the planning system.

**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.** Whilst local councils would welcome being granted more say in planning decisions, they would not want to be the custodians of permitted development rights they did not agree with. NALC already has concerns with many existing permitted development rights and it does not support an across-the-board extension of them.

For further information on this response contact Fflur Jones via email at [fflur.jones@nalc.gov.uk](mailto:fflur.jones@nalc.gov.uk) or [policycomms@nalc.gov.uk](mailto:policycomms@nalc.gov.uk).