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Public Service and Permitted Development Consultation  
Ministry of Housing, Communities and Local Government  
Planning Directorate  
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2 Marsham Street  
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SW1P 4DF

28 January 2021

Dear Consultation Team,

**Supporting housing delivery and public service infrastructure consultation**

I am writing to you as the Greater Manchester Combined Authority (GMCA) Portfolio Lead for Housing, Homelessness and Infrastructure. The GMCA is committed to working in partnership with others to deliver high quality, safe and affordable homes which meet the diverse needs of our communities, and helps us to tackle the severe housing and homelessness crisis that Greater Manchester, (and the country), are facing.

For these reasons, the GMCA is very concerned about the proposals in this consultation. As noted in our response to the Planning White Paper, the relaxation of planning controls to allow conversion of commercial buildings to residential has already had a demonstrable impact upon the safety and quality of new housing, which particularly in the light of the tragedy at Grenfell in June 2017, is completely unacceptable.

These proposals represent further centralisation of the planning system, in advance of, and separate to, the proposals set out in the 'Planning for the Future' White

Paper. They significantly compromise the ability of local authorities to exercise their core functions, (properly planning for places, including provision of infrastructure that communities need); raise serious concerns for the health and vitality of city, town and local centres, and further limit the participation of communities in the decision making process for development which directly impacts upon them.

Our boroughs (including my own) will be submitting more detailed responses to the consultation. This response complements those responses but focuses specifically on the strategic issues that this consultation raises.

### **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**

The proposals extend the Permitted Development Rights that currently exist to convert office buildings to homes. Nationally this has delivered 54,000 homes over 4 years and has resulted in some very well publicised low quality and unsustainable developments across the country.

This consultation proposes that a new Use Class is created the 'Commercial, Business and Service use class' which includes uses generally found on the high street such as shops, banks and restaurants, and broadens it to encompass a wider range of uses such as gyms, creches and offices.

This provides greater flexibility to move between such uses, and to provide for a mix of such uses, without the need for a planning application. Although these uses are commonly found on the high street the proposed new use class is not restricted to the high street but would apply to these uses wherever they are located. There would be no size (or height) limit on the buildings that the new use class applied to, and it would be extended to apply to conservation areas. Buildings subject to this proposed new permitted development right may not be located in sustainable locations or provide high quality living environments, (notwithstanding the prior approvals set out in paragraph 21 of the consultation document and requirement to meet the nationally described space standard). This is more likely to be the case for larger floorplate buildings.

#### **Quality and safety of development**

The problems with the introduction of prior approval for conversion of offices to residential are well documented. The low-quality living environments which have resulted are implicitly acknowledged in this consultation. Government is proposing that all new homes resulting from the new PD rights have to meet the Nationally Described Space Standards (which GM welcomes) and have natural light – this is because some new homes have been built under the existing PD rights which do not even have windows.

Having acknowledged these problems it is very concerning that Government is seeking to remove quality and safety controls from an even wider range of development opportunities. The consultation proposes that there should be no size limit on the buildings that the new rights apply to, including height restrictions which is deeply concerning. The proposed planning reforms contained within the White

Paper and the expansion of Permitted Development rights proposed here, are a significant concern in relation to fire safety in multi-storey multi-occupied buildings.

The Independent Review of Building Regulations and Fire Safety reported to the Government in May 2018 and confirmed that the current regulatory system for high-rise and complex buildings was “not fit for purpose” and that there were “deep flaws” in the current system. A clear recommendation within the Final Report was the creation of a regulatory ‘gateway’ at the planning stage. The purpose of the proposed Gateway 1 at the point of planning permission was to ensure that access for firefighting purposes is considered prior to the granting of planning permission.

The Government in responding to the Building a Safer Future Consultation in April 2020 expanded on these proposals and indicated that Gateway 1 would apply to all multi-occupied residential buildings of 18 metres or more in height or more than six storeys. The Government then stated that at Gateway 1 developers would be required to submit a ‘fire statement’ setting out the fire safety considerations specific to the development with their planning application.

It is a cause for concern that despite the consideration of fire safety and access being a fundamental principle of the reforms recommended to and accepted by the Government these are not enshrined in the Building Safety Bill and it is unclear how this could work within the proposed reforms of the wider planning system including proposals (especially the extension of permitted development rights) in this consultation.

The aim of the Building Safety Bill to embed fire safety from the outset of the design of a building is undermined by the exemption for buildings where the use is changed under permitted development rights. This is particularly relevant regarding Gateway 1. The basis on which the Government does not consider it necessary for fire safety, including access and water, to be a consideration when planning the expansion of, or change of use to, a high rise residential building is unclear.

The scale of conversions from commercial to residential is relatively low across Greater Manchester in comparison to other areas of the Country. However, the work undertaken within Greater Manchester following the fire at Grenfell Tower has identified significant fire safety concerns with converted accommodation. Greater Manchester Fire and Rescue Service (GMFRS) which has inspected all high-rise residential buildings has identified fire safety deficiencies in all of the high-rise buildings it has inspected which have been converted from office accommodation. The extent of these deficiencies goes beyond concerns about external cladding and includes inadequate compartmentation, a failure to provide adequate firefighting facilities and small room sizes with layouts that increase the risk to occupiers.

### **Inability to provide necessary infrastructure through planning gain**

There is also a significant concern that the extension of PD rights to a significant proportion of development removes the ability of LPAs’ to secure Section 106 obligations through the permitted development rights process. Such obligations contribute to mitigating the impact of new development by supporting a wide range of

essential infrastructure, services and facilities such as the provision of affordable housing; the improvement of open space or public realm; the delivery of transport improvements; sustainable drainage systems and flood mitigation measures (particularly relevant after the recent experience with Storm Christoph in Greater Manchester), or the expansion of schools to create additional places. These proposals remove the ability of the local authority to provide these mitigations to the detriment of local communities. Not only will this result in an undue impact from development consented through permitted development rights, but it will also lead to greater resistance to development that does need to follow the planning process, as it will be perceived (correctly) that new development puts additional pressure on existing infrastructure without having to make any contribution to improving it.

The impact on the provision of truly affordable housing is particularly acute. The COVID-19 emergency has highlighted the enormous humanitarian crisis facing our communities. As the impact of coronavirus has worsened, it is those in most acute housing need that are among the most vulnerable to infection. In Greater Manchester we have been working on an urgent response to house 1,300 rough sleepers, homeless and those living in temporary shared accommodation in hotels and provide them with essential services to help them during the coronavirus crisis. However, this is not a permanent solution and the transition out of this emergency accommodation will be a real task, one that urgently needs the support of investment in truly affordable housing to support those in the most acute housing need. There are also the ongoing and increasing pressures on those in temporary and settled accommodation who are facing new levels of social and economic hardship as a result of COVID-19 that will require enhanced support.

At this time the top priority for Government should be to exploit all avenues available, to support these vulnerable households through the provision of more social and affordable homes. This should include enabling and strengthening the ability of local planning authorities to maximise the provision of truly affordable homes through the planning system. Even before COVID-19 struck we were already struggling to find solutions for the almost 100,000 households currently on the Housing Register in Greater Manchester, 30,000 of which are in priority housing need. Instead, the proposals in this consultation seek to remove the ability of local authorities to negotiate affordable housing or any of the other benefits listed above, in relation to a wide range of development opportunities. This is unacceptable.

### **Impact on town and city centres**

The Mayor and the Leaders of the 10 Greater Manchester boroughs have long recognised that there is a need to address the future of our town centres. Whilst the scale of the economic impact of the Covid-19 pandemic is yet to be fully understood, it is already clear that this will lead to some significant challenges for town centres, particularly for the retail and hospitality sectors. It is now a critical time for town centres to have a planned response to these challenges - a response that will enable them to fully prepare for, and adapt to, the rapidly changing economic landscape facing high streets across the country.

The Mayor's Town Centre Challenge, the Mayoral Development Corporation at Stockport and the work of the districts through strategic masterplans and the

successful Future High Streets Fund bids for example, demonstrate that this is a priority issue and one which is being tackled. Increasing the attractiveness of town centres as sustainable urban neighbourhoods is a key objective of our approach, as demonstrated by the proposals for 3,500 homes in Stockport town centre, over 2,000 in Oldham and Bolton and of course over 50,000 at the core of the conurbation.

Part of the attraction of town centres is that they contain a mix of uses, providing for day and night-time activity which are well served by public transport. Provision of low-quality unregulated housing is not part of our plans and should not be enabled by erosion of the controls that local authorities currently have to deliver high quality and sustainable development. Perversely the conversion of retail/commercial premises to housing could lessen the attractiveness and vibrancy of these centres and contribute to the rapid decline of city, town and local centres unless they are properly controlled.

Residential uses can make a positive contribution to designated centres, but they must be in the correct location and avoid frontages that need to be active in order to support the successful functioning and attractiveness of the centre. There are centres where a reduction in the amount of commercial floorspace is appropriate. However, this should be a planned process that seeks to preserve the most vibrant and viable centre through a managed consolidation of commercial space. What is proposed in this consultation seeks to reallocate uses in centres based on the timing of lease opportunities. This is likely to result in more dispersed and far less vibrant commercial activity in centres. Furthermore, the loss of a single 'anchor' activity could have a devastating impact on some centres.

The introduction of residential uses at ground floor level in designated centres particularly needs to be carefully controlled, as in the wrong location they can have a significant adverse impact on vitality and viability, introducing a 'dead' frontage that detracts from the public realm and overall quality of the centre.

The NPPF includes a chapter emphasising the importance of planning to secure vibrant town centres. The proposals in this consultation will largely remove the tools on which the planning process relies to achieve these policy outcomes.

### **Conservation Areas**

The extension of the proposed PD rights to conservation areas is strongly opposed and appears to run directly counter to the Government's stated intention to 'build better, build beautiful'. A number of different uses and units could be located in close proximity to each other within a conservation area, and these, including their individual characteristics such as their unit frontages, windows and doors and also the presence of individual shop signs may all contribute towards the character of the conservation area. These units may also be a significant contributory factor in the reasoning for the designation of the conservation area in the first place.

If the right as currently proposed was to be applied there would be no design standards in place which could result in the loss of individual characteristics of unit frontages and also changes in materials including windows and doors which could be significantly detrimental to the character of the area. Even such relatively small

changes to a single property could have a significant and detrimental impact upon the character of a wider conservation area and place.

Notwithstanding our view that the rights should not apply in conservation areas at all, we agree that prior approval should be required in conservation areas for such changes to ground floor uses but it should also be required for first floor and above uses as it is not just the ground floor of units that contribute towards the overall character of a conservation area. The upper floor levels including the roofline can be equally important however and there is no logical argument why these should be afforded lesser protection. The requirement for prior approval would provide an additional level of control to prevent against loss of architectural design features and design standards at these upper floor levels as well.

### **Reduction in local participation**

The extension of Permitted Development Rights and the prior approval process reduces considerably the ability of residents, conservation and amenity groups to become involved in the planning process. There is often resistance to development from local communities, however preventing them from expressing their concerns is only going to exacerbate distrust of local authorities and harden opposition to development. If the resultant development is poorly designed, lacking basic amenities and unable to contribute to the infrastructure pressures it creates, public opposition will increase. The proposed changes could have a considerable impact on communities as a result of the loss of important services, facilities (including community uses) and day-to-day convenience and other shopping facilities without full and proper consideration through the planning process.

Reducing the ability of the community to make proper representations will raise suspicions about the transparency, fairness and proportionality of decision making and continue to reduce any remaining confidence communities have in the operation of the planning system.

### **Resourcing**

GMCA agrees that there should be a fee associated with these PD rights, however the proposed £96 per dwelling unit is completely inappropriate. Whilst the prior approval route would grant the principle of residential development, consideration of the remaining elements for prior approval are akin to what would normally be considered with a full planning application.

The LPA would still have costs associated with receipt and validation, consultation and publicity, assessment of the submission and dealing with consultee and third party representations, negotiation with the developer/applicant, decision making and issuing a decision.

Local government has been faced with significant cuts in its budgets under successive Conservative government's. It is accepted that the government recognised that planning services had suffered severe cuts in staffing resources when it introduced an increase in fees of 20% in 2018. Part of the rationale for the proposed new permitted development right is that it has the potential to deliver significant quantities of new homes so planning services have to be adequately

resourced to deliver such a take up. Given this, fees must be set at same level as those for dwellings for full planning permission and not at a reduced rate of £96 per unit.

The consultation document seems to suggest a maximum fee cap based on 50 homes (i.e. £4,800). The justification for this is unclear. It is highly likely that some large floorplate retail or office buildings (some with multiple floors) will come forward and create more than 50 homes. The approach should follow the existing sliding scale for full planning permission for residential development.

The consultation document notes that “We consider that a fee of £96 per dwelling house would not impact significantly on the costs to developers within the context of the overall costs of the development and land value uplift to be gained.” This seems to be very one sided in favour of the development industry; it ignores the significant impact the proposed fee structure would have on council budgets and may mean that due consideration cannot be given to applications due to budgetary pressures. This would be even more significant if the Government’s White Paper proposals were introduced, which would expect the planning process to fully fund planning departments. To achieve this, the fees associated with planning activity must be realistic.

## **SUPPORTING PUBLIC SERVICE INFRASTRUCTURE THROUGH THE PLANNING SYSTEM**

The consultation document sets out more detailed proposals for the extension of permitted development rights for schools, hospitals and prisons. These proposals raise fewer general concerns at a strategic level, although there may be more local concerns dependent on circumstances of the locality.

Given the issues raised in this response around resourcing of the planning service and the threats to this as a result of the consultation process, the GMCA opposes the proposed reduction in the determination period for applications subject to the modified process.

It is important to dispel the automatic assumption that local planning authorities are at the heart of the delays this consultation seeks to remedy. It is normally the case that complex planning applications require the submission of additional information after they have been initially assessed. This may be due to responses from the local community or consultees. The time it takes to process a planning application is principally a result of the quality of the submission and the approach is to work with applicants to support them through the process rather than refuse an application just to meet a deadline. Changing the statutory target will have no significant impact on the timescales for a decision and could actually encourage more refusals and discourage LPAs from being positive a proactive in finding solutions to problems that emerge during the planning process.

Equally, in line with our comments about the reduced participation in the planning process, a 14-day period for consultation / publicity (including for statutory consultees) for applications subject to the modified process is not supported. It is

very likely that if the ability of the community to make representations is shortened it will only disengage them and result in more objections that need to be then considered, summarised and reported in decision making. It is the case that LPA's must consider representations made up to the point of a decision.

## **CONSOLIDATION AND SIMPLIFICATION OF EXISTING PERMITTED DEVELOPMENT RIGHTS**

The GMCA has no comments on these proposals

We look forward to reading your responses to the points we have raised in this letter and in the more detailed responses from our boroughs.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P. Dennett', with a stylized flourish at the end.

Paul Dennett  
City Mayor of Salford and Greater Manchester Portfolio Lead, Housing,  
Homelessness and Infrastructure