

<b>Title:</b> Approval condition where a development order grants permission for building  <b>IA No:</b> RPC-3165(1)-CLG  <b>Lead department or agency:</b> Department for Communities and Local Government  <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>
	<b>Date:</b> 27/10/2015
	<b>Stage:</b> Final
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> primary legislation
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<b>Summary: Intervention and Options</b>	<b>RPC Opinion: GREEN</b>

**Cost of Preferred (or more likely) Option**

Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?	
			In	Out

**What is the problem under consideration? Why is government intervention necessary?**

Reducing the burdens and costs within the planning system for businesses (applicants) remains a Government priority. The Secretary of State has long-established powers under Section 58-60 of the 1990 Town and Country Planning Act to grant national planning permission for development. These are known as permitted development rights. Where permitted development for change of use creates negative externalities, the Secretary of State could require local planning authorities to approve specified matters and the mitigation measures proposed by the developer before the development takes place. This is known as 'prior approval'. We wish to extend these prior approval provisions to permitted development rights related to building operations (as defined in section 55 of the 1990 Act). This will help remove the requirement for a planning application for more types of development and provide greater certainty to business and developers.

**What are the policy objectives and the intended effects?**

The objective of the Clause is to further simplify the planning system by increasing the Secretary of State's ability to consider bringing forward permitted development rights through secondary legislation for a wider range of development. This is because the Secretary of State can ensure that while a full planning application need not be submitted, the local planning authority will be able to consider specified matters such as traffic and highways impacts or flood risk. This could remove the need for a full planning application for a wider range of development and give developers certainty of what impacts will be considered by the local planning authority through prior approval, while maintaining proportionate protections for the local community. This will support development to take place more quickly and with more certainty which in turn supports increases in housing supply, enables businesses to respond more quickly to changing market demands. The first use of the new provision is likely to be in support of the Government's intention, announced on 12 October 2015, to bring forward the proposal to allow the demolition of an office building and its replacement with a residential building on a like for like basis<sup>1</sup>. Without the proposed provision permitted development rights could not be brought forward for such developments and would continue to require a full planning application to be submitted to the local planning authority.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Do nothing: would increase the risk of legal challenge where permitted development rights are brought forward for a wider range of development, as it would prevent the Government from giving local authorities powers to take account of the specific impacts from permitted development involving building operations.

Option 1: (preferred option): Currently the Secretary of State's powers to require local planning authorities to consider specified matters under prior approval applies where national planning permission is granted for change of use.. So we are seeking to amend section 60 to create similar approval provisions for building operations. It is therefore not possible to take a non-regulatory approach to provide local planning authorities with these wider approval powers.

**Will the policy be reviewed?** . It will support further simplification of the planning system by enabling the Secretary of State to bring forward wider permitted development rights and remove the requirement for further types of development involving building operations to require a full planning application. Any permitted development rights brought forward through secondary legislation will be kept under review. . **If applicable, set review date:** N/A

Does implementation go beyond minimum EU requirements?

N/A

<sup>1</sup> The detail on the permitted development right for the demolition of an office building and its replacement with a residential building is being developed. It is therefore too early to estimate the impacts on business within this Impact Assessment. An Impact Assessment of this proposal will be submitted to the RPC for scrutiny in the future.

Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b>	<b>Non-traded:</b>	

*I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.*

**Signed by the responsible:**



**Date:** 27/10/15

**Signature:** \_\_\_\_\_

# Summary: Analysis & Evidence

Description:

## FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price) Year	Average Annual (excl. Transition) (Constant	Total Cost (Present Value)
Low			
High			
Best Estimate			

### Description and scale of key monetised costs by 'main affected groups'

We are unable to quantify the costs of this proposal at this stage, as they depend on the details of secondary legislation establishing specific permitted development rights. Estimates of the impacts described below will be provided in separate Impact Assessments produced alongside secondary legislation. While a full planning application need not be submitted, the local planning authority will be able to consider specified matters such as traffic and highways impacts or flood risk. This could remove the need for a full planning application for a wider range of development and give developers certainty of what impacts will be considered by the local planning authority through prior approval. We cannot accurately estimate the scale of any monetised costs to business at the primary legislative stage as this will depend on the detail of the permitted development right set out in secondary legislation. Any use of the power under secondary legislation will be supported by an Impact Assessment.

### Other key non-monetised costs by 'main affected groups'

Consideration of specific non-monetised costs, eg potential loss of amenity for neighbours arising from additional permitted development, will be considered under specific proposals for permitted development rights brought forward through secondary legislation.

BENEFITS (£m)	Total Transition (Constant Price) Year	Average Annual (excl. Transition) (Constant	Total Benefit (Present Value)
Low			
High			
Best Estimate			

**Description and scale of key monetised benefits by ‘main affected groups’**

We are unable to quantify the benefits of this proposal at this stage. As stated above, they depend on the details of secondary legislation establishing specific permitted development rights. Estimates of the impacts described below will be provided in separate Impact Assessments produced alongside secondary legislation. However, by enabling the Government to bring forward proposals in secondary legislation for wider permitted development rights businesses will benefit from savings associated with not having to complete a planning application and greater certainty about what impacts will be considered by the local planning authority through prior approval. A more detailed assessment of the benefits will be undertaken in relation to any specific proposals brought forward through secondary legislation. However, in general terms: where a planning application is no longer required there will be a saving to the applicant from the reduced fee and preparatory/administrative work avoided even where prior approval from the local planning authority is required. This is consistent with previously validated IAs RPC13-FT-CLG-1809(2) and RPC14-FT-CLG-147(3). For illustrative purposes, it may be helpful to highlight analysis from Arup on behalf of DCLG which show the differences in costs to business (applicants) from having to submit a planning application for change of use compared to a prior approval application, and the scale of savings to business that may follow. We estimate for change of use that the total saving to developers who would have submitted a full application, and would be able to submit an application for prior approval under the permitted development right, to be £13,210 per application. Further information is set out below in the evidence base section.

**Other key non-monetised benefits by ‘main affected groups’**

An increase in land values as an ability to develop land in the future at lower cost is anticipated.

Key assumptions/sensitivities/risks

Disc

**BUSINESS ASSESSMENT (Option 1)**

Direct impact on business (Equivalent Annual) £m:			In scope of	Measure qualifies
Costs:	Benefits:	Net:	Yes	Out

## Evidence Base

**Problem under consideration**

The Government believes we need an economy that is competitive for business and which is delivering new housing to meet current and forecast needs.

The Government recognises the need for a proportionate and fair planning system, to facilitate development, boost growth and reflect the changing nature of our economy and society. As part of the Government's on-going programme of reform it is making the planning system faster, simpler and more proportionate.

Since May 2010 the Government as part of the drive to improve the planning system by removing unnecessary delays to new development, has granted planning permission, by development order, on a nationwide basis for certain growth related developments, particularly for new state funded schools, broadband, extension of dwellinghouses and conversion of various types of buildings including offices, farm buildings, shops, storage buildings etc to housing.

### **Context**

The planning system provides an objective mechanism through which the impact of a proposed new development on land use and third parties, including neighbours, other businesses, and the environment, can be considered, in line with local and national policies. Applying for planning permission places an administrative burden on business.

The planning system aims to achieve proportionality by exercising different degrees of control over types of development which includes the change of use and building operations. A full application for planning permission is usually appropriate for large scale, complex developments, or those with greatest impact on neighbours, the wider community or the environment. The requirement for local authority scrutiny of small scale proposals, with little impact on neighbours, the community or environment is removed by the grant of national permitted development rights. Permitted development rights are a deregulatory tool, reducing bureaucracy and cost. They use a general impact based approach to grant automatic planning permission for development that complies with limitations and conditions. The rights are set out in Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015<sup>2</sup>. Where it is considered that the impacts from certain types of permitted development cannot be sensibly mitigated at national level because they are locally specific the approach has been to set conditions and limitations to allow consideration by the local authority of specific planning matters before development proceeds. This is known as "prior approval".

Reducing the costs and burden of the planning system for business is a priority for Government. As part of its ongoing reform it has streamlined national policy and planning guidance, and introduced a number of permitted development rights to reduce the burden on business and make the best use of existing buildings in support of key Government agendas.

A Regulatory Triage Assessment on this new primary provision was assessed and signed off on 16 October 2015.

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<sup>2</sup> <http://www.legislation.gov.uk/uksi/2015/596/contents/made>

## **Rationale for intervention**

We want to increase flexibilities to enable the Secretary of State to consider bringing forward wider permitted development rights through secondary legislation. This primary power will support the Government to bring forward secondary legislation to enable more types of development to benefit from permitted development rights, removing the requirement for a planning application to be submitted and providing greater certainty for developers. The first use of the new provision is likely to be in support of the proposal to allow demolition of an office building and replacement building for residential use.

The Government, following a consultation in summer 2014, has already implemented a package of new permitted development rights, some with minor amendment to reflect comments raised and has announced in October its intention to extend the office to residential permitted development right permanently and to allow demolition of an office building and replacement building for residential use; as well as change of use from light industrial (B 1 (c)) or launderettes to residential. The RPC confirmed the Department's assessment of this proposal is deregulatory on 20 August 2015 (RPC15-BIS-3032(1)). This proposal will further increase the amount of development that can take place without the need for a full planning application and boost the delivery of much needed new homes to support its wider housing agenda. While existing change of use permitted development rights are provided by powers taken under the Growth and Infrastructure Act 2013, further powers are required to support the extension of permitted development rights for building operations, such as the demolition of an office building and its replacement with a residential building, which require physical works.

Details are set out in Option 1 below.

## **Policy objective**

The policy objective is to enable local authorities to consider broader, more specific impacts of permitted development for building operations under secondary legislation.

## **Description of options considered**

Do nothing. Choosing not to amend primary legislation would likely increase the risk of legal challenge to any specific proposals brought forward through secondary legislation as the Government would not be able to give local authorities powers to consider and mitigate specific impacts under permitted development rights involving building operations .

### Option 1 (preferred option).

Introduce amended primary legislation to enable local planning authorities to consider more specific impacts under the prior approval process. This will allow for wider permitted development rights for building operations to be brought forward through secondary legislation. These changes will apply to England only.

## **Option 1: Give local authorities wider approval provisions for operational developments**

### **Costs and benefits of the preferred option**

The costs and benefits of the preferred option will impact on the main affected groups in the following way:

#### Business

This measure will not affect existing permitted development rights. We cannot at the primary legislative stage estimate the scale of impacts on business as this will depend on the detail of specific proposals for permitted development rights to be brought forward through secondary legislation. We can confirm that any such proposals would be subject to a detailed Impact Assessment, including an estimated Equivalent Annual Net Cost to Business.

However, in general terms, permitted development rights benefit businesses (applicants) by removing the requirement to submit planning applications. This represents a reduction in transaction costs, including a reduction in fees and the administrative burden in the preparation of a planning application, even where this is offset by application fees for prior approval.

Analysis by Arup for DCLG<sup>3</sup> in relation to change of use permitted development rights estimates that the median cost to applicants of preparing and submitting a planning application for change of use for a small residential development is between £1,040 and £27,310, with a central estimate of £14,180. The same research suggests that the median cost of preparing and submitting an application for prior approval is approximately £2,360.

These estimates include fees, which have since risen in nominal terms (from £335 to £385 per dwelling for small residential developments). To avoid double-counting the reduction in fees, we remove this element from our central estimate of costs, and assume the non-fee costs are £12,920 for a planning application for the change of use and £2,530 for a Prior Approval application, inflated from 2009 prices to 2015 prices using HMT GDP deflators. The reduction in non-fee costs partly captures the increased certainty provided to developers over the aspects of their application which will be subject to approval by the local planning authority.

We estimate the total saving to developers who would have submitted a full application for change of use, and which will be able to submit an application for prior approval under the permitted development right, to be £13,210 per application in 2015 prices.<sup>4</sup>

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<sup>3</sup> DCLG (2009) Benchmarking the costs to applicants of submitting a planning application: <http://webarchive.nationalarchives.gov.uk/20120919132719/http://www.communities.gov.uk/documents/planningandbuilding/pdf/benchmarkingcostsapplication.pdf>

<sup>4</sup> The saving per application is estimated as the change in non-fee costs (£12,920 less £2,530) and the change in fees (£2,820 in our central estimate).

The assumptions around savings to applicants are consistent with those set out in the previous office to residential impact assessment validated by the Regulatory Policy Committee (RPC11-CLG-0845(3)), with revisions in line with subsequent evidence.

Without permitted development rights, businesses might also be expected to make a section 106 contribution to the Local Planning Authority as part of a full planning permission. Under permitted development rights, this cost is not incurred i.e. there is a further benefit to business. We would also expect that some permitted development rights, by reducing the cost and risk and applying for planning permission, would make additional land viable for development. This benefits the owners of the additional sites affected through an increase in property values, given the potential to increase the effective use of the land and/or buildings.

We have identified that some other businesses – who use land under its current use - may incur costs from displacement, or higher rents, as permitted development rights make specific sites attractive for new development, but we consider these costs to be indirect as they depend on a choice by the land owner. In many cases we expect these costs would have occurred under the counterfactual in the longer term.

As the details of new permitted development rights will depend upon the specific proposals brought forward in secondary legislation, it is not possible to estimate the number of sites or applications, and hence the numbers of businesses, which will ultimately be affected. We would expect developers and land owners to experience the greatest impact from new permitted development rights. We have previously estimated that there are approximately 14,000 developers in England of sufficient scale to be affected (in the Impact Assessment relating to permission in principle, RPC-3069(2)-CLG).

### Local planning authorities

We are unable to estimate the impacts of this measure at this stage, but permitted development rights in general reduce the administrative costs required for the planning process as a result of having fewer planning applications to determine. However this benefit may be offset by the time taken to consider prior approval and a decrease in fee income from prior approval applications which attract a lower fee.

By potentially removing the need for planning permission for building operations, local authorities will lose the opportunity to consider such development in the context of their local plans. Where they consider it is necessary to protect the local amenity or wellbeing of the area, they may make an Article 4 direction to remove any rights in a specified area and require a planning application to be submitted. There will be associated costs to local planning authorities in making an Article 4 direction, including the costs of collecting evidence and consulting on the proposed Article 4 direction, as well as the administrative cost of processing planning applications, because the fee is waived where Article 4 directions have been made.

**Although we are unable to quantify the impact of this measure on business at this stage we consider it in scope of One-In-Three-Out given that the creation of new permitted development rights in secondary legislation will be in scope,**

**and we expect these measures to be deregulatory. This approach is consistent with the RPC Impact Assessment case histories and guidance.**