

# Royal Institute of British Architects

## Department for Levelling Up, Housing and Communities: Response to the street vote development orders consultation

February 2024

The Royal Institute of British Architects is a global professional membership body driving excellence in architecture. We serve our members and society in order to deliver better buildings and places, stronger communities and a sustainable environment. Being inclusive, ethical, environmentally aware and collaborative underpins all that we do.

RIBA welcomes the opportunity to respond to this consultation on the implementation of street votes development orders. Consultation with RIBA expert members has informed our response.

Alongside our members, we have raised significant concerns that there is a chance that street vote development orders will create additional complexity in the planning system and not help deliver the high-quality, sustainable homes that we need. This warrants it being monitored so that any unintended consequences are identified and addressed. The hesitations outlined by our members must be considered and addressed.

To ensure that there are no unintended consequences from the implementation of street vote development orders, it is vital that local planning authorities (LPAs) are supported with the powers and resource that will be needed to manage this process. Members have raised concerns that if there is a risk of significantly increasing the workload of planning officers, existing backlogs will increase, stifling the development of badly-needed high-quality new homes. While making better use of land in existing settlements is welcome, we must ensure that street vote development orders are not extended to new settlements, which would be detrimental to building the homes we need.

RIBA recommends that the Government should:

- Take steps to ensure that any implementation of street vote development orders is concurrent with the necessary resource for LPAs to manage subsequent additional workload.
- Highlight the importance of architects and qualified designers in guaranteeing that best practice is adhered to throughout implementing street vote development orders.
- Ensure that community engagement undertaken as part of the street vote development order proposal process requires meaningfully inclusive participatory engagement.
- Undertake a comprehensive assessment of the efficacy and any negative consequences of the implementation of street vote development orders to ensure swift mitigative action where necessary.



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**Question 4: Do you agree that qualifying groups (or those acting on their behalf) should be required to undertake community engagement, but have discretion on how they engage on their proposals? If not, please provide details.**

No.

We agree that if street vote development orders are implemented, qualifying groups, or those acting on their behalf, should be required to undertake community engagement. This is vital for ensuring that proposals are as robust as possible and that any reasonable opposition to development is addressed and mitigated, while also ensuring that community representation does not only privilege groups with bigger resources and platforms.

However, the proposal to allow discretion on which methods of community engagement are undertaken is concerning. While we agree that there is an importance in tailoring engagement approaches to local circumstances, there is a chance that qualifying groups may not have the necessary expertise in public participation to ensure that such engagement is fully inclusive and accessible. This may then facilitate opposition to high-quality development.

We note that the Government intends to publish guidance on effective community engagement. However, we do not feel confident that this alone will guarantee best participatory practice. Instead, we would recommend that the Government opts for minimum requirements for community engagement which could then be adapted to local circumstances.

**Question 6: Do you have any views on what level of community engagement would be appropriate? If yes, please provide details.**

In RIBA's response to the Department for Levelling Up, Housing and Communities' 2023 consultation on the implementation of plan-making reforms,<sup>1</sup> we recommended that community engagement should be undertaken with experts in inclusive participatory approaches. Best practice must include a range of methods to ensure that meaningful engagement is facilitated through as many means as is practicable within relevant constraints.

This makes engagement activities accessible and inclusive to all potential consultees, and that every effort is made to include the widest possible range of perspectives into the consultation process. While as the consultation notes, there will be inevitable variation in how to facilitate this from area to area, we would encourage the Government to embed best practice participatory principles in requirements for community engagement as outlined in our response to Question 4.

**Question 7: Do you have any further views on community engagement you feel should be considered? If yes, please provide details.**

We have previously stated that the expansion of the use of public participation mechanisms such as digital tools would make it easier for residents and other stakeholders to visualise and contextualise the implications of a proposed development, such as those proposed under street vote development orders.

However, it is crucial that public consultation is not confined to the digital realm, and that a broad range of engagement approaches are utilised to allow all affected residents are taken into account, not just those who put themselves forward to be heard. This includes ensuring that measures are undertaken which consider increasing participation for disabled and marginalised stakeholders, alongside others who are traditionally underrepresented in the consultation process.

**Question 8: Do you agree with the Government's proposals on what a street vote development order proposal must include? If not, please provide details.**

Yes.

In theory, we agree with the Government's proposals on what a street vote development order proposal must include. However, as we extrapolate on below, there are still a number of potential challenges in terms of completing the proposal itself and our agreement should not be misread as uncritical support.

We particularly welcome the inclusion of information such as impact assessments and statements. It is important that any implementation of street vote development orders has stringent checks and balances at all stage of the process to avoid unintended consequences. The level of information required with regards to design parameters is also welcome.

Further to this, given the capacity, resource and skills gaps facing many LPAs, it is critical that street vote development order proposals are as comprehensive as possible to avoid taking up additional resource. We are concerned that street vote development orders, if not properly resourced, will create additional backlogs in the planning system. Given the existing complexity of the planning system, measures that could create further complexity without substantial increases in resource will have a detrimental impact. This is a key concern reiterated by many of our members.

We have long been calling for additional resource to be allocated to LPAs to tackle the significant existing skills and capacity gaps, and should additional routes to permission such as street vote development orders be implemented, this must be a key element for consideration. While it has been alluded to that recent increases in planning fees will be ringfenced for the use of LPAs, clarity on this would be welcome.

In terms of the proposals themselves, given the complexity of many of the proposed components and the limited experience many qualifying groups will have in compiling the relevant information, we are concerned that qualifying groups will face difficulties in providing submissions to the required standard and detail without significant external input.

We note that the text of the consultation states that “where an individual submits a proposal on behalf of a qualifying group, we envisage that someone with expertise in preparing development proposals such as an architect would be well placed to perform this role.” However, there is little further information included on what this would involve in practice, and what practical support will be available to qualifying groups without an expert acting on their behalf.

**Question 9: Do you consider that there is any further information or documents that should form part of a proposal? If not, please provide details.**

In the text of the consultation, it is suggested that the proposal should include a “a declaration that the qualifying group has engaged with the local community.” However, no mention is made of further information required, and we would encourage the requirement that details of the scope and breadth of consultative activity is included.

**Question 10: Do you have any views on what tools would help qualifying groups in preparing and submitting street vote development order proposals? If not, please provide details.**

As noted in our answer to Question 8, it is likely that external expertise will be crucial for street vote development order proposals to fully articulate both the proposal itself and any assessment of resultant impacts on the wider environment or community. We acknowledge that two references to the potential role of experts such as architects are included in the text of the consultation, which are welcome.

There is a clear role here for qualified designers, including architects, particularly with regards to the proposition that qualifying groups or those acting on their behalf “submit a street design code that sets out illustrated design parameters for physical development within the street area such as number of floors, plot use and the facade treatment of buildings.” In addition, the option to submit “a detailed specification of the elevations visible from public spaces for new or extended buildings that are permitted in the street area” would likely benefit from the input of qualified designers.

**Question 15: Do you agree that street vote development orders may only grant planning permission for residential development and cannot be used to permit changes of use? If not, please provide details.**

Yes.

In line with our recommendation in Question 24, it is imperative that it is not possible to reduce the net amount of residential dwellings available via a street vote development order. Further, extending their provisions to encompass change of use class would add substantial and unwelcome complication to the planning system.

Provision to permit changes of use class via street vote development orders is not only unnecessary given that there are existing routes to such permissions, but also contravenes the primary aim of this specific route to permission, namely increasing density in terms of available dwellings.

**Question 16: Do you agree we should add development of buildings whose origins date before 1918 to the list of excluded development? If not, do you have any alternative suggestions for how the development of older buildings can be excluded?**

There are a range of views from RIBA membership on the above proposal.

Choosing a single point in time as an exclusion simplifies a very complex issue. There may be pre-1918 that are suitable for street vote developments, while there may be others that should be protected. Further detailed consultation is needed on this topic to ensure the right buildings are protected.

**Question 17: Are there any further types of development you think should be added to the list of excluded development? If yes, please provide details.**

Yes.

Further suggestions from RIBA members are developments within World Heritage Sites, and developments within 50m of a scheduled monument within the meaning given by section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979.

**Question 18: Do you agree with our proposed design principles? If not, please provide details.**

Yes.

We are mostly in agreement with the proposed design principles as outlined in the consultation text. We are particularly pleased to see a focus on preserving/increasing green space, promoting active travel and creating sociable neighbourhoods, having long advocated for their importance.

However, we would encourage the Government to ensure that focus on “gradual evolution in character” does not inadvertently act to prohibit necessary, high-quality development. While in line with the Government’s focus on gentle densification, we would welcome assurances that this principle could not be invoked to stymie the intended development of high-quality new dwellings through street vote development orders.

**Question 22: Do you agree with our proposals on the role of the development plan in the street vote development order process? If not, please provide details.**

No.

The text of the consultation states that “street vote development orders should be permitted to go beyond that which might be permitted under the local development plan where the impacts are broadly acceptable in the view of the Secretary of State according to national policy.”

We are concerned that allowing street vote development orders to go further than development plans will cause unnecessary confusion. In 2022, we raised concerns<sup>ii</sup> that street votes may create further complexity in the planning system, and we are clear that such complexity must be mitigated. These concerns have been recently reiterated by our members.

Further, allowing street vote development orders to supersede development plans could create further opposition to high-quality development. Local opposition to permissions granted through a street vote development order which would not otherwise be permitted within the scope of the local development plan may have an adverse impact on further willingness to engage with further proposed development.

**Question 24: Do you agree that street votes must not be used to reduce the amount of residential development in a street area? If not, please provide details.**

Yes.

We agree that it is vital that there is no provision for street vote development orders to reduce the amount of residential development in a street area. This is pertinent given the scale and complexity of the housing crisis and the pressing need to create more homes, particularly in areas which have existing infrastructure capacity.

**Question 25: Do you have any views on our proposed approach to managing highways and transport impacts? If yes, please provide details.**

Yes.

Given that additional development will be within existing settlements, it is unlikely that there will be significant impact on highways and transport capacity from the implementation of street vote development orders on a macro scale. However as the text of the consultation notes, there may be implications in areas such as delivery and servicing requirements, vehicle movements and parking and road access.

The text of the consultation states that consideration will be given to whether guidance should be updated. We agree that at present this is a sensible approach, though should there be a measurable impact in this area deriving from the use of street vote development orders, that mitigation measures should be assessed and undertaken without delay.

**Question 26: Do you agree with our proposals to further safeguard the historic environment? If not, please provide details.**

Yes.

**Question 27: Do you agree with our proposed approach to managing local impacts? If not, please provide details.**

Yes.

**Question 30: What support should be provided to qualifying groups in order to make sure they can effectively discharge their obligations under the Environmental Impact Assessment regulations, if required? Please provide details if applicable.**

The text of the consultation makes clear that “the Government expects that in many cases street vote development will not be of a nature or scale that would be above the threshold for an Environmental Impact Assessment (EIA).” We agree that this is likely to be the case in the majority of instances.

In the instances where discharging obligations under EIA regulations is applicable, we are concerned that in order to do so, as in our answer to Question 8, qualifying groups will have to have access to a great deal of technical expertise. The consultation acknowledges that EIA regulations have become increasingly complex, and while the transition to Environmental Outcome Reports (EORs) is intended to simplify this, it is likely that there will be additional complexity in the transitional period.

This is particularly relevant at present, with responses to the June 2023 consultation on EORs still being analysed. In the intervening period, with both the implementation of street vote development orders and EORs subject to potentially different timelines, it is exceptionally important that qualifying groups are able to access the technical expertise necessary to effectively discharge their obligations.

**Question 31: Do you have any views on how the Environmental Impact Assessment regulations should be modified for street vote development orders? If yes, please provide details.**

As is stated in the consultation, the Levelling Up and Regeneration Act allows for the Secretary of State to make regulations modifying the existing process under the EIA regulations. However, we are concerned that steps to modify regulations to take into account street vote development orders may have an inadvertently detrimental impact on environmental protections.

Further, should the timeline for EIAs be replaced with EORs be comparatively short, EIA modifications may then be rendered irrelevant. We would be pleased for the Government to advise on how the potential implementation of street vote development orders will be taken into account in EORs.

**Question 35: Do you think that Biodiversity Net Gain should apply to street vote development in this way? If not, please provide details.**

It is appropriate that BNG should apply to street vote development orders in line with the exemptions that will be applied for the wider planning system.

Further clarity is needed on the proposed framework to identify street vote development exemptions. It is important that any new planning policy does not present the possibility of negating existing efforts to improve natural habitats via the widening of exemption criteria from BNG rules.

**Question 36: Do you agree with our proposals for a validation stage before proposals can be examined? If not, please provide details.**

Yes.

We agree that it is sensible to include a validation stage before proposals are examined. Given the immense pressure that the planning system is currently under, and the scale of existing backlogs, we support measures to avoid unnecessary work being undertaken. Validating proposals to guarantee that all requirements are met prior to examination is a clear way to do this.

**Question 47: Do you have any views on the potential options for when development granted planning permission through a street vote development order must be commenced? If yes, please provide details.**

We are concerned that allowing commencement to be extended for longer than is usually allowed through existing consent routes will have a number of negative implications. While we understand that the Government is taking into account the fact that the permission will apply to properties with different owners, a large part of the reason for existing timelines is to ensure that compliance with current planning policy and standards is upheld.

Should options for commencement be extended significantly, there is a likelihood that allowing a consent to be live for a greater number of years will lead to confusion. This is particularly true given the rapidity with which planning policy can change.

In addition, there is an impact here for the wider built environment. As the design and use of the built environment can undergo significant change in a short amount of time, we are concerned that permissions granted under a street vote development order, if not enacted with appropriate haste, are liable to become outdated.

**Question 48: Do you agree with our proposed pre-commencement requirements? If not, please provide details.**

Yes.

**Question 49: Do you agree that the setting of Community Infrastructure Levy (CIL) rates for street vote development should be simplified and streamlined, and that CIL should be the main route for the collection of developer contributions on street vote development orders, prior to the introduction of the Infrastructure Levy? If not, please provide details.**

No.

CIL should be the main route for developer contributions to be collected until the commencement of the Infrastructure Levy, however the process should not be streamlined. Projects which are commenced via street vote development orders should have to meet the same triggers and thresholds as national policy.



This is particularly pertinent given that the orders relate to residential changes, meaning that the wider community will not see a benefit in terms of provision of amenities. In allowing street vote development orders to bypass the thresholds set in existing national policy, we are concerned that a route could be opened for current obligations to be bypassed while also creating further complexity.

Further to this, it is unclear from the consultation how projects that are not owner-occupier-led would be financed if not through the payment of CIL, and where developer involvement, allowing the collection of developer contributions, will commence. We would welcome additional detail on how exactly this will occur.

**Question 50: Do you agree that conditions requiring a s106 planning obligation should be limited to mitigations which cannot be achieved through condition alone, and which cannot be delivered through Community Infrastructure Levy? If not, please provide details.**

Yes.

The street vote development order should align with current processes to ensure that there are no loopholes which would allow alternative routes to consent to avoid S106 obligations. Furthermore, it is imperative that an LPA enforces S106 obligations and any associated payments or deliverables, regardless of the route they are delivered under, so that communities receive tangible benefits and do not miss out on critical funding or provisions.

**Question 51: Do you think the same approach should be taken for street vote development orders as for planning applications, that developments of 9 units or less should not have to make an affordable housing contribution via their Community Infrastructure Levy receipts? Please provide details if applicable.**

Yes.

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<sup>i</sup> [https://riba-prd-assets.azureedge.net/-/media/Files/Policy/RIBA-responses-to-consultations-and-inquiries/RIBA\\_Response\\_Plan\\_Making\\_Reforms\\_Consultation.pdf?rev=5e9bc980d3c746d187a45ab9dfba0ede&hash=9B5F31928784E3BEA2A5E7B456AE7946](https://riba-prd-assets.azureedge.net/-/media/Files/Policy/RIBA-responses-to-consultations-and-inquiries/RIBA_Response_Plan_Making_Reforms_Consultation.pdf?rev=5e9bc980d3c746d187a45ab9dfba0ede&hash=9B5F31928784E3BEA2A5E7B456AE7946)

<sup>ii</sup> <https://www.architecture.com/knowledge-and-resources/knowledge-landing-page/levelling-up-and-regeneration-bill-what-does-it-mean-for-architects>