

Planning for schools development – consultation

Summary of responses





Planning for schools development – consultation

Summary of responses

© Crown Copyright, 2011

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/ or write to the Information Policy Team, The National Archives, Kew, London, TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk

This publication is also available on our website: www.communities.gov.uk

If you require this publication in an alternative format please email:
alternativeformats@communities.gsi.gov.uk

Any enquiries regarding this publication should be sent to us at:

Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Tel: 030 3444 0000

August 2011

ISBN: 978-1-4098-3009-2

Contents

| | |
|---|-----------|
| Summary | 2 |
| Background..... | 3 |
| Outcome of the consultation | 4 |
| Annex A: List of respondents | 11 |

Summary

The Department for Communities and Local Government ran a consultation exercise between 14 October and 10 December 2010 on proposed changes to the Town and Country Planning (General Permitted Development) Order 1995 to facilitate schools development.

The consultation was designed to explore ways of supporting the Coalition Government's flagship free schools policy through the planning system. The free schools policy was announced by the Secretary of State for Education on 18 June 2010. It has brought important new freedoms for parents, teachers, charities and faith organisations to establish schools in the state sector in response to local need and parental demand. The Government believes that free schools are an important innovation, which will increase choice and opportunity in education and help to raise standards.

A consultation was launched to explore the case for relaxing planning controls for change of use planning permission for schools development to support the Government's educational reform agenda. It followed the commitment to consult made by the Secretary of State for Communities and Local Government in his Written Ministerial Statement of 26 July 2010.

The majority of the respondents to the consultation (120) did not support a change to the existing planning framework. Forty-seven respondents favoured reform, with 25 respondents stating no preference.

This paper is a summary of the responses to consultation.

Background

The Department for Communities and Local Government conducted a consultation exercise between 14 October and 10 December 2010 on reforms to the existing planning framework for change of use planning permission for schools development.

The consultation was designed to support the Government's free schools programme. The Government believes that the right school can transform a child's life and help them achieve their full potential. Through the free schools programme it is now much easier for talented and committed teachers, charities, parents and education experts to open schools to address real demand within an area, increasing choice in the state-funded sector and thereby improving education for children in their community.

Free schools are an imaginative and innovative response to education reform and the Government believes that equally imaginative and innovative solutions can be found elsewhere to support their delivery. The consultation exercise was an opportunity to think creatively about planning for schools and see whether changes are needed.

In recognition of the importance of free schools to the Government's educational objectives, the consultation document, *Planning for Schools Development*, sought to explore how the planning system might facilitate the creation of free schools by making it easier for free schools' providers both to find suitable premises and convert buildings into schools.

To meet this objective, the Government invited views on proposed changes to the Town and Country Planning (General Permitted Development) Order 1995, to give a permitted development right for buildings in some or all other uses to change their use to a school without the need to apply for planning permission. It made four proposals, as follows:

- **Option 1: Retain the current planning framework and make no changes to the planning system.**
- **Option 2: Give a permitted development right for *some* uses to convert to a school use.**
- **Option 3: Give a permitted development right for *all* uses to convert to a school use.**
- **Option 4: Give a permitted development right, with attached conditions, for *all* uses to convert to a school.**

The consultation was conducted according to the Code of Practice for consultation. There was a shortened eight week consultation period so that schools seeking to open in September 2011 could benefit from any resulting relaxation of existing planning laws.

Outcome of the consultation

Overview of responses

A total of 192 responses were received by the closing date of 10 December 2010. A further 17 responses were submitted after the closing date, however, the Government did not consider these late responses as part of the consultation.

The majority of consultees favoured retaining the existing planning framework.

Responses by organisation

The breakdown of responses submitted by organisation is shown below.

| | |
|--|-----------|
| Local Planning Authority | 90 |
| School promoter | 11 |
| Community group/representative | 4 |
| Parish council | 0 |
| Business | 3 |
| Private developer | 1 |
| Land owner | 0 |
| Voluntary sector or charitable organisation | 14 |
| Other public body (please state) | 20 |
| Other (please state) | 14 |

In addition, **35** responses were received by respondents commenting in their personal capacity.

Summary of responses by question

The consultation document invited views on four consultation proposals and asked 10 questions on specific issues, with a further question to invite any additional comments that consultees might wish to make. The questions and their results are shown below.

Q1. Do you think that the uses listed under option 2 should be given a permitted development right to convert to a school?

| Use class | Yes | No | No response |
|---|-----|-----|-------------|
| A1 shops | 28 | 127 | 37 |
| A2 financial & professional services | 32 | 123 | 37 |
| B1 business | 34 | 119 | 39 |
| B8 storage or distribution | 32 | 124 | 36 |
| C1 hotels | 50 | 104 | 38 |
| C2 residential institutions | 52 | 101 | 39 |
| C2A Secure residential institutions | 42 | 112 | 38 |
| D2 assembly and leisure | 52 | 102 | 38 |

Q2. Do you think that the further uses listed under options 3 and 4 should be given a permitted development right to convert to a school?

| Use class | Yes | No | No response |
|---|-----|-----|-------------|
| A3 restaurants and cafés | 30 | 125 | 37 |
| A4 drinking establishments | 29 | 126 | 37 |
| A5 hot food takeaways | 28 | 127 | 37 |
| B2 general industrial | 30 | 124 | 38 |
| C3 dwellinghouses | 33 | 119 | 40 |
| C4 houses in multiple occupation | 28 | 124 | 40 |
| Sui generis use | 27 | 124 | 41 |

The responses to questions 1 and 2 reflect the fact that most consultees wished to retain the existing planning framework and so did not wish to see a permitted development right granted to the above use classes. It should be noted that in their wider comments, several respondents made the point that if reform were to proceed, they could support the granting of a permitted development right to some of the use classes listed above.

Q3. Should a use converting to a school for a temporary period retain the right to revert to the previous use if it does so within 5 years?

| Yes | No | Don't Know | No response |
|-----|----|------------|-------------|
| 81 | 46 | 31 | 32 |

As the results indicate, most respondents were content to offer a right to revert to the previous use if that change occurred within 5 years. Mostly, consultees felt a right to revert would be appropriate because the previous use would be established and acceptable. They also noted that it would encourage more people to lease their premises to school providers and so offer them more choice and flexibility when seeking premises. Respondents

also noted the merits of a right to revert in terms of minimising empty property and preventing dereliction. Those who objected felt that significant changes could have occurred during the course of 5 years, which might render the original use inappropriate or change its overall impact – for instance, if housing had since emerged due to the arrival of the school.

Q4. Would allowing the following uses to convert to a school use without the need for planning permission have any unintended consequences?

| Use class | Yes | No | No response |
|---|------------|-----------|--------------------|
| A1 shops | 132 | 15 | 45 |
| A2 financial & professional services | 131 | 15 | 46 |
| B1 business | 130 | 15 | 47 |
| B8 storage or distribution | 130 | 16 | 46 |
| C1 hotels | 118 | 27 | 47 |
| C2 residential institutions | 116 | 28 | 48 |
| C2A Secure residential institutions | 119 | 25 | 48 |
| D2 assembly and leisure | 117 | 25 | 50 |
| A3 restaurants and cafés | 129 | 16 | 47 |
| A4 drinking establishments | 128 | 17 | 47 |
| A5 hot food takeaways | 131 | 15 | 46 |
| B2 general industrial | 131 | 15 | 46 |
| C3 dwellinghouses | 132 | 13 | 47 |
| C4 houses in multiple occupation | 131 | 14 | 47 |
| Sui generis use | 130 | 12 | 50 |

As the results indicate, a significant proportion of respondents believed that a permitted development right for schools would result in unintended consequences across the different use classes. This sentiment was predominantly expressed by those respondents who were opposed to reform, but also by some respondents who favoured the introduction of a permitted development right.

Respondents identified a range of unintended consequences. The most frequently cited were the potential unsuitability of the location, with the safety risks that it might bring; adverse traffic impacts such as an intensification of traffic flow during the morning rush hour; access, highway capacity and public transport provision; noise nuisance; and the impact on neighbouring properties and residential amenity. Many consultees also expressed concerns about the loss of other land uses, in particular retail and employment uses, which they believed could affect town centre management and the vitality and viability of an area. Respondents were also concerned that the absence of a planning application denied local people involvement in the process and felt that this might lead to community hostility against the school.

Q5. Should the local planning authority have to approve a transport assessment before the permitted development right can be activated for changes from some or all non D1 uses?

| Yes | No | Don't Know | No response |
|-----|----|------------|-------------|
| 133 | 25 | 9 | 25 |

While the majority of consultees supported the need for a transport assessment, this support did not translate into support for consultation option 4 – the only option which included a required transport assessment.

Q6. Do you think that there are any other matters that the conditions should address?

| Yes | No | No response |
|-----|----|-------------|
| 118 | 32 | 41 |

The responses to question 6 show strong support for the need to consider a range of issues when introducing a permitted development right. The issues most frequently mentioned by respondents were noise; hours of operation; access, road safety and parking; school travel plans; the impact on neighbouring properties; and the impact on the local community.

Again, responses to question 6 did not translate into overall support for option 4, the only option offering conditions. This is because most consultees favoured no change to the existing planning framework. Answers to question 6 appeared to say that, should conditions be included, they should address the matters listed above alongside transport.

Q7. Should the compensation provisions contained in section 189 of the Planning Act 2008 be applied to change of use to a school, if a permitted development right is given?

| Yes | No | Don't Know | No response |
|-----|----|------------|-------------|
| 51 | 43 | 45 | 53 |

Some local planning authorities were concerned about the risk of having to pay compensation where inappropriate development had occurred that was outside of their control. Others believed that section 189 should be applied to schools in the same way as it is to any other type of development. As the results show, views on this matter were fairly evenly balanced.

Q8. The Government would like to permit schools to co-exist with certain dual uses, but not with others. Do you have views about whether and how this could be achieved? ¹

| Yes | No | No response |
|------------|-----------|--------------------|
| 77 | 62 | 53 |

Respondents shared the Government’s view that a dual use could be desirable in certain cases but not in others. They cited the benefits of the ability to create a community hub, enhance sustainability through the collocation of services and cost efficiency. Respondents also recognised that in some instances dual uses would be highly undesirable, for example, if schools were collocated with drinking establishments or fast food takeaways. The responses did not offer solutions as to how this balance could be struck as part of the reform proposals. Many consultees felt that each case should be assessed in isolation through the planning system. More generally, some consultees feared that a dual use would have a detrimental impact on the learning environment and the freedom of children, while many concerns were expressed about child safety and the need for Criminal Records Bureau checks for those working in close proximity to children.

Q9. Which is your preferred option and why?

| Option | Overall support |
|---|------------------------|
| 1 – make no change to the existing planning framework | 120 |
| 2 – give a permitted development right to some uses | 14 |
| 3 – give a permitted development right to all uses | 12 |
| 4 - give a permitted development right to all uses with conditions | 21 |
| No preference | 25 |

The consultation exercise came out strongly in favour of making no change to the planning framework (option 1), with the three reform options (options 2, 3 and 4) receiving fairly even, but modest support. Local planning authorities provided 90 responses and were predominantly opposed to reform. Given their responsibilities for planning, education and transport, they felt better placed than individual parents or teachers to judge the suitability of a location or the potential impacts of a schools development. Several local planning authorities said that they are sympathetic to schools development and rather than being removed from the process, should be viewed as key enablers in

¹ The Government sees that the wording of consultation question 8 did not lend itself to a yes/no response. Therefore, responses were logged according to the sentiment expressed by consultees i.e. where the respondent objected to dual use, the response has been logged as a ‘no’, where they agree, even in part, the response has been logged as a ‘yes’.

helping to deliver free schools, while recognising the helpful role that the planning system can play.

Schools promoters provided 11 responses. They demonstrated an appetite for change, providing 10 votes in favour of introducing a permitted development right, with the remaining promoter expressing no particular preference. Specifically, schools promoters provided two votes for option 2; five for option 3 and three for option 4.

Q10. Do you think these proposals should be applied solely to new free schools or to all schools? Why?²

| Yes | No | Didn't answer |
|-----|-----|---------------|
| 24 | 111 | 57 |

As the results indicate, respondents believed that all schools should be treated equally in law. If a permitted development right were granted, it should therefore apply to all schools, not just new free schools. Consultees made the point that schools present the same land use impacts, whether they be state-funded or independent.

Question 11 invited general comments, which have been considered as part of the analysis of consultation. The points most frequently made by respondents through the consultation are summarised below.

- Schools are major developments with far-reaching impacts; they are not the type of development that should be granted a permitted development right.
- Traffic is a major concern in relation to child and highways safety; access; impact on the local road network; public transport provision; sustainable travel to school; parking and congestion. The school run forms a significant part of the morning rush hour.
- A permitted development right undermines the local planning authority's ability to manage the mix of land uses – for instance, the loss of retail and commercial space could harm the employment opportunities, vitality and viability of a local area.
- The local community would be unable to express their views on a proposed new school.

² The Government sees that the wording of consultation question 10 was not conducive to a yes/no answer. It has therefore logged responses according to the sentiment being expressed, logging 'yes' where the consultee felt the proposals should be restricted to free schools and 'no' where they did not.

- A permitted development right could give rise to a range of adverse impacts, such as: noise, the impact upon neighbouring properties and residential amenity and the hours of use – especially where schools are used by the community into the evening or at weekends. Respondents felt that the hours of operation should be regulated.
- The consultation proposals rely too much upon the good judgement of individuals and give no further reassurances that unsuitable or dangerous locations would be omitted from consideration.
- Local planning authorities felt that planning should not be viewed as an obstacle to schools development, but as a sympathetic enabler, which can help to deliver schools while retaining community support.

It should be noted that some respondents who opposed the reform proposals were nonetheless sympathetic to the Government's aspirations to liberalise the planning system to assist schools development.

Some of the consultees who favoured option 1 made suggestions as to how reform might take place if it were to proceed. Respondents suggested that the Government might consider more subtle changes before seeking to amend planning law, for example, to issue strengthened policy or guidance to establish a permissive approach to free schools development. Others suggested that the Government might wish to give the permitted right only to some uses (though not necessarily the same uses as those proposed in option 2), or that the Government could introduce a threshold above which the permitted development right did not apply in order to minimise its impact, or that it might consider using conditions as suggested under option 4.

Improving opportunity and standards in state education remains a priority for Government. That is why the Government expressed support in its Schools White Paper 2010: *The Importance of Teaching*, for those with the vision, drive and skills to set up a free school – and its desire to give them the freedoms to try new approaches and to make a real difference in their communities. The Government sees that many of the respondents to consultation share its vision to increase choice and opportunity in state education, but remain unconvinced that the consultation proposals presented the best means to achieve this.

Annex A: List of respondents

1. Ross Ford
2. Stephen Parish
3. Portsmouth City Council
4. Wiltshire County Council
5. Joint Nature Conservation Committee
6. Susan Collins
7. London School of Islamics
8. Richard Buxton
9. Thomas Jones
10. Kate Bevington
11. Daniel Scharf
12. Wandsworth Schools Forum
13. Durham County Council
14. Ray Hughes
15. Kevin Verdon
16. On Track Education Services
17. Logios
18. Helen Hedar
19. Jon Barr
20. Peter Fair
21. Diaspora High School
22. David Horsley
23. Bedford & Kempston Free School
24. Colin Wilsdon
25. Helen Holman
26. Eastleigh Borough Council
27. David Snowdon
28. Sarah Whitebread
29. Imogen Pennell
30. Loughton Residents Association
31. One in Million
32. William S Trite
33. Karen Bray
34. Queen Mother Moore School Ltd
35. Stockton on Tees Borough Council
36. Peter Downes
37. Castlepoint Borough Council
38. Hull City Council
39. We Need a School Campaign
40. Neighbourhood School Campaign
41. Preston City Council
42. Catholic Education Service
43. Ian Patrick
44. Norwich City Council
45. Sustrans
46. Chelmsford Borough Council
47. Town & Country Planning Association
48. Howard J Green
49. Association of School & College Leaders
50. Merseytravel
51. Michael Follett

52. Dolores Ward
53. Association of Noise Consultants
54. Essex County Council Highways Authority
55. Rotherham Metropolitan Borough Council
56. Preston City Council
57. London Borough of Enfield
58. London Borough of Barking & Dagenham
59. Willows Centre for Children
60. North Somerset Council
61. Knightsbridge Association
62. New Schools Network
63. National Organisation of Residents Associations
64. Suffolk County Council
65. Bristol, Gloucestershire, Somerset & Wiltshire Environmental Protection Committee
66. Peterborough City Council
67. East Northamptonshire Council
68. Malton Montessori School
69. Oxford Community Church
70. Skyeward Limited
71. Heather Bridge
72. Torbay Council
73. Leicestershire County Council
74. Learning Through Landscapes Trust
75. National Union of Teachers
76. Oxfordshire County Council
77. Maldon District Council
78. Bell Cornwell LLP
79. Alliance for Inclusive Education
80. ILM Primary School
81. Rutland County Council
82. North Yorkshire County Council
83. West Sussex County Council
84. Braintree District Council
85. Huntingdonshire District Council
86. Kirklees Council
87. Windsor & Maidenhead Borough Council
88. Dorset County Council
89. Barnsley Metropolitan Borough Council
90. Blackpool Council
91. Kensington Society
92. GMPTE
93. Focus Learning Trust
94. Devon County Council
95. CPRE
96. London Borough of Richmond Upon Thames
97. Walsall Council
98. Centro
99. Bilingual Free School for South East London
100. Oakwood School
101. Association of Consultant Architects
102. Local Government Technical Advisers Group
103. Gloucestershire Pollution Group
104. Waveney District Council
105. Milton Keynes Council

106. Somerset County Council
107. Calderdale Metropolitan Borough Council
108. Oldham Council
109. Sport England
110. Cognita Schools Limited
111. Association of Teachers & Lecturers
112. Church of England Education Division
113. Ipswich Borough Council
114. London Council
115. Royal Borough of Kensington & Chelsea
116. Living Streets
117. Westminster City Council
118. Hertsmere Borough Council
119. Mike Shellens
120. The Coal Authority
121. Development Managers Group, Association of Greater Manchester Authorities
122. Southend Borough Council
123. Birmingham City Council
124. Essex County Council
125. Guildford Borough Council
126. London Borough of Hammersmith & Fulham
127. Central Bedfordshire Council
128. Nottingham City Council
129. London Borough of Redbridge
130. Wychavon District Council
131. Transport for London
132. Cornwall Council
133. Southampton City Council
134. Brake
135. Coventry City Council (officer response)
136. Hampshire County Council
137. Cambridge City Council
138. Royal Institute of British Architects
139. Buckinghamshire County Council
140. Planning Officers Society
141. East Sussex County Council
142. Board of Deputies of British Jews
143. Darlington Borough Council
144. Leeds City Council
145. Health & Safety Executive
146. West Sussex County Council
147. Wakefield Council
148. Crawley Borough Council
149. Stoke-on-Trent City Council
150. Rushcliffe Borough Council
151. Derbyshire County Council
152. London Borough of Lambeth
153. Surrey County Council
154. London Borough of Hounslow
155. Tameside Metropolitan Borough Council
156. London Borough of Lewisham
157. Manchester City Council
158. City of Bradford Metropolitan Borough Council
159. Dudley Metropolitan Borough Council

160. CEPOG
161. Chesterfield Borough Council
162. CABE
163. Bracknell Forest Borough Council
164. AESE
165. Birmingham City Council – Education & Skills
166. Derbyshire County Council
167. Cumbria County Council
168. St Helens Council
169. Hertfordshire County Council
170. Bolton Council
171. RTPi
172. Cambridgeshire County Council
173. London Borough of Southwark
174. Norfolk County Council (officers)
175. (LGA) Strategic Aviation Special Interest Group
176. Local Government Association & Planning Officers Society Joint Responses
177. London Borough of Greenwich
178. NASUWT
179. London Borough of Bexley
180. Campaign for Better Transport
181. Greater London Authority
182. Council for Disabled Children
183. Lancashire County Council
184. Scott Brownrigg Planning
185. Network Rail
186. Environmental Protection UK
187. South Gloucestershire Council
188. London Borough of Hillingdon
189. Clean Air in London
190. Broadland District Council
191. Bedford Borough Council
192. Brighton & Hove Council