

Relaxation of planning rules for change of use from commercial to residential

Summary of consultation responses and the Government's response to the consultation





Relaxation of planning rules for change of use from commercial to residential

Summary of consultation responses and the Government's response to the consultation

© Crown copyright, 2012

Copyright in the typographical arrangement rests with the Crown.

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 http://www.nationalarchives.gov.uk/doc/open-government-licence/ or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk.

This document/publication is also available on our website at www.communities.gov.uk

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

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

July, 2012

ISBN: 978-1-4098-3565-3

Contents

Introduction	2
About the consultation	3
Consultation responses	4
Government response to the consultation and next steps	10
Annex 1: The consultation questions	12

Introduction

- 1. It is accepted that there is an urgent need to increase the rate of house-building in England and make housing supply more responsive to changes in demand. For decades, house-building in England has failed to keep up with the needs and aspirations of our growing population.
- 2. The Government believes that there is an opportunity to contribute to increasing the housing supply by recognising the scope for allowing changes of use of buildings from commercial to residential to take place more easily.
- 3. We recognise that there are buildings which no longer function as intended in their existing locations. There are offices built in locations where the demand for office space has moved on or the need is for buildings with higher specifications that are better able to deliver for modern businesses. Similarly, there are industrial buildings which are no longer suitable for manufacturing which have struggled to find new uses but which offer good opportunities for conversion.
- 4. All such changes in use contribute to the Government's objective of redeveloping brownfield land and disused buildings first. This also reinforces existing communities and makes best use of the existing urban and rural amenities.
- 5. The consultation paper, *Relaxation of the planning rules for commercial to residential*, sought views on making it easier to change use from commercial to residential. This document provides a summary of the main themes in the responses received and sets out details of the actions the Government is taking forward.

About the consultation

- The Department for Communities and Local Government ran a consultation exercise between 8 April and 30 June 2011 on proposed changes to the Town and Country (General Permitted Development) Order 1995 (as amended) to make it easier to change the use of buildings from commercial to residential.
- 7. The proposals were part of the Government's *Plan for Growth* announced at the Budget in March 2011. They were put forward as a possible means of helping to address the urgent need for housing in England, promoting the regeneration of underused commercial buildings and bringing empty buildings back into productive use.
- 8. The consultation paper sought views on making changes of use:
 - from B1 use (business offices, research and development premises and light industry) to C3 (dwellinghouses) permitted development i.e. to allow such changes to happen freely without the need for planning applications
 - from B2 (general industrial) and B8 (storage & distribution) to C3 (dwelling houses) permitted development
- 9. It also asked whether the current permitted development rights which allow the conversion of space above a shop or other town centre use into a single flat should be extended to allow for more than one flat.

Consultation responses

- 10. A total of 714 responses were received during the consultation period. Respondents are categorised below:
 - individuals 242 responses
 - local authorities and public sector organisations 234 responses
 - businesses, developers and private sector organisations 106 responses
 - parish and town councils 92 responses
 - other 40 responses
- 11. A summary of responses on the proposals around change of use from commercial (B use classes) to residential (C3 use class) is included in paragraphs 12-25 and on flats above shops in paragraphs 26-28. The individual consultation questions are set out in Annex 1.

Commercial to residential

12. Overall respondents recognised the urgent need to increase the supply of housing nationally and to encourage economic growth.

Permitted development rights

- 13. The consultation asked whether there was support for the principle of granting permitted development rights to allow B1 and/or B2 and B8 uses to convert more easily to residential.
- 14.36% of respondents supported the principle of giving permitted development rights in relation to B1 uses and 31% for B2 and B8 uses. The remainder of respondents did not support the principle of giving permitted development rights. In response to both questions respondents recognised the benefits of greater change of use.
- 15. Key points made by those supporting the proposals were:
 - could result in a much needed increase in the supply of dwellings
 - could reduce the demand for greenfield sites
 - could allow for a more flexible and responsive supply of land to satisfy changing demands and ensure good buildings do not go to waste
 - could create new opportunities for home-working and small business and a revival of community life
 - by definition B1 uses can operate in residential areas without detriment
 - proposals could be extended to include empty or obsolete buildings in other uses and/or to allow other types of residential use

and those against:

- strong concerns over the likely effect on availability of current and future employment space – particularly for small businesses, in rural areas and town centres
- would have adverse impacts on the ability of local authorities and their communities to plan for the best use of land to meet their specific housing and employment needs
- could reduce certainty for major employers who know, at the moment, that local authorities are unlikely to approve housing near industrial uses and therefore their investment in new machinery and/or facilities is secure
- unlikely that most B2 and B8 uses would lend themselves to sensitive conversion and therefore opportunities may be limited
- most properties will require associated works which will still need planning permission
- finding replacement sites for B2 and B8 sites, given the nature of these types of business, may be difficult
- the impacts of such changes of use vary widely depending on local circumstances, and are best considered alongside a planning application
- need to safeguard against possibility of inadequate housing in unsustainable locations
- 16. An important point made by a number of respondents, both those in favour of and those opposed to the proposals, was that the Government's aims could as effectively be delivered through a policy approach. The suggestion was that a strong national planning policy would send a clear message that local authorities should approve changes of use from commercial to residential while still allowing them to take account of local circumstances in reaching a decision on a particular proposal. This would ensure effective mitigation arrangements could be agreed and would protect the opportunity for securing developer contributions.
- 17. The consultation then asked a series of more detailed questions about how any new permitted development rights might work in practice.

Reversion to previous use

18. On whether, if the proposals were to go ahead, there should be a provision allowing reversion to the previous use within 5 years the response was mixed. 28% felt that this would be a reasonable approach which would provide developers with the necessary flexibility to respond to changing market conditions. 33% felt allowing reversion was not appropriate, with many considering it would be unlikely to happen anyway due to the difference in land values between commercial and residential uses and the costs of conversion. The remainder either did not respond or did not indicate a clear preference.

Requirement for mitigation measures

- 19.60% of respondents felt that, if the proposals were implemented, mitigation measures would be required to address potential adverse impacts. Of this 60%, over half expressed strong views that any possible mitigations were likely to be insufficient, too complex or the costs of meeting the mitigation requirements would outweigh the potential benefits of the proposed changes. Only 5% of respondents felt no mitigation would be required. The remaining 35% either did not respond or did not indicate a clear preference.
- 20. In terms of potential impacts requiring mitigation, the majority of respondents identified the same issues as were suggested in the consultation document. Other possible impacts identified included:
 - reduction in the ability of local communities and neighbourhoods to influence development in their area
 - reduced ability of local authorities to strategically plan to meet both local housing and employment needs
 - loss of control over design and standards of housing
 - loss of small, affordable premises, which were seen as vital to house business start ups and small and medium firms
 - dilution of the business focus in Central Activity Zones or similar areas where primary purpose is business use
 - the loss of any buildings used for economic purposes in rural areas e.g. villages becoming dormitory settlements, residents having to travel further for work and to find units for small and medium firms, increases in the number of second homes, closure of local shops etc
 - pressure on local authority resources e.g. loss of business rates, increased costs of investigating "bad neighbour" complaints and pressure on infrastructure provision
 - on viability of town centres; historic towns; conservation areas
 - impact on ecology, protected species, Special Protection Areas, Sites of Special Scientific Interest, Areas of Outstanding Natural Beauty etc
 - possible property speculation with quick gains for some but increased price volatility and market uncertainty for the majority
- 21. There was support for all the types of mitigation referred to in the consultation document. Other mitigation measures which were suggested included to:
 - allow local authorities to opt out of the relaxation without the need to pay compensation or, alternatively, to opt in on the basis of local evidence
 - have a system whereby property professionals determine which use is appropriate to a particular site
 - run a pilot scheme to test the proposals
 - have a mechanism for safeguarding the interests of existing businesses such that they do not have to pay for any mitigation

- measures needed as a result of introducing residential use into commercial area
- review the effect of the change on business rates and the implications of this on the local authorities' revenue streams
- allow permitted development rights to be claimed by the developer who would be required to show how a range of safeguards will be met
- restrict proposals to the provision of affordable housing to mitigate loss of commercial workspace
- 22. Around 10% of those respondents who indicated that mitigation would be required thought that it could best be deployed through a prior approval mechanism. Only a small number of respondents favoured self certification by developers. Other options suggested included allowing the mitigation to be determined and prescribed locally, and that the Government should decide on the best method which should be set out in guidance.

Article 4 directions

- 23. The consultation specifically sought views on whether the compensation liability associated with the use of article 4 directions to withdraw permitted development rights should be reduced in relation to the consultation proposals.
- 24. Around two thirds of respondents either chose not to answer this question or their response did not indicate a clear preference.
- 25. Of those who did respond, 52% were in favour of either reducing local authorities' liability to pay compensation or going further to remove the liability altogether. The primary reason given was that unless the liability was at least reduced there would be a risk that authorities would not make directions where there was a legitimate need to do so. 23% felt that either the compensation liability should not be reduced or local authorities should not be able to use article 4 directions at all. This was largely because respondents felt that local authorities might make directions where they were not necessary.
- 26. A further 25% of those who responded expressed views that article 4 directions are not an appropriate means of control as the associated cost, bureaucracy and need to apply directions over wide areas could deter local authorities from using them where necessary.

Residential to commercial

- 27. The consultation asked for views on whether there was any justification for a national policy on change of use from residential to commercial. 45% of respondents either did not respond or did not indicate a clear preference.
- 28.12% of respondents were in favour of such an approach as they felt it would allow greater flexibility in responding to changing market conditions,

- although of those in favour some felt it should be limited to B1 uses as they were more compatible with residential.
- 29.43% of respondents did not feel such an approach was justified and had two main comments. Firstly, that it would be contrary to the central aim of increasing the supply of housing. Secondly, that each change of use would have different implications for the area in which it was located and therefore needed to be determined locally through consideration of a planning application.

Flats above shops

- 30.34% of respondents agreed that it would be appropriate to extend the existing permitted development rights which allow the space above shops and other town centre uses (A1 and A2 use) to be converted into a single flat without the need to submit a planning application. A quarter of respondents did not consider such action was merited and the remainder either did not respond or did not indicate a clear preference.
- 31. Comments made in response to this question included:
 - could increase the vitality and viability of town centres and drive regeneration
 - could contribute to the overall objective of building more homes
 - encouraging people to live in town centres could contribute to a greater feeling of safety especially at night
 - flats created would be likely to be at the more affordable end of the market, helping people either looking to get a first step on the home ownership ladder or to find an affordable home to rent
 - could provide an opportunity for shop owners to raise additional income to support or invest in improving their business
 - could provide an attractive alternative for students rather than seeing family homes turning into shared housing
 - if one flat is already allowed then the principle has been established
 - it could increase flexibility in the planning system and ensure land is used efficiently and housing is delivered more quickly
 - there should be certain requirements, for example, to meet size and space standards
 - depending on local circumstances, development of more than one flat could give rise to adverse impacts, for example, pressure on parking or increased noise and litter, which would require mitigation
- 32. Over 40% of those who supported the proposal were in favour of the imposition of an upper limit on the number of flats that would be allowed. Suggestions for an upper limit generally fell within the range of 2 to 6 flats. Many suggested that there should be a minimum size limit per flat either instead of or in addition to an upper limit of the number of flats to mitigate against low quality residential development. Others felt that the physical

limits of the building and the market would dictate the maximum number of flats.

Government response to the consultation and next steps

- 33. The Government would like to thank all those who took the opportunity to respond to this consultation.
- 34. We have given very careful consideration to all the points which were raised and have decided to take the following actions:
 - to include a new policy in the National Planning Policy Framework¹, to be read in the wider context of the Framework document, that local planning authorities '...should normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in the B use classes) where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate...'; and
 - to amend the Town and Country Planning (General Permitted Development) Order 1995 (as amended) to extend existing permitted development rights which allow the space above shops and other town centre uses (A1 and A2 uses) to be converted into a single flat without the need to submit a planning application, to allow for 2 flats
- 35. The consultation paper recognised that any permitted development right would need to be tailored to ensure that it did not give rise to unintended consequences and that it would be possible to build in effective mitigation provisions. This view was supported by the responses to the consultation, particularly in relation to the need to ensure that local employment needs continue to be met and that housing would be appropriate to its location.
- 36. We believe that a strong, national planning policy will achieve the Government's aims of delivering more housing and encouraging the reuse of empty buildings while giving local authorities and their communities the opportunity to influence development in their area and take account of local circumstances. We will keep the impact of this policy under review to ensure that it is effective.
- 37. Making it easier for the space above shops and other town centre uses to convert to residential will increase the supply of housing and gives clear encouragement to owners to look carefully at the potential offered by their properties. Helping more people to live in the town centres will contribute to wider regeneration, reduced commuting and ensuring town centres

10

¹ The National Planning Policy Framework is available on the Department's website at: http://www.communities.gov.uk/publications/planningandbuilding/nppf and the specific policy is set out at paragraph 51

remain vibrant places. Our aim is to introduce these legislative changes in October 2012.

Annex 1: The consultation questions

Question A: Do you support the principle of the Government's proposal to grant permitted development rights to change use from B1 (business) to C3 (dwelling houses) subject to effective measures being put in place to mitigate the risk of homes being built in unsuitable locations?

Question B: Do you support the principle of granting permitted development rights to change use from B2 (general industrial) and B8 (storage & distribution) to C3 (dwelling houses) subject to effective measures being put in place to mitigate the risk of homes being built in unsuitable locations?

Question C: Do you agree that these proposals should also include a provision which allows land to revert to its previous use within five years of a change?

Question D: Do you think it would be appropriate to extend the current permitted development rights outlined here to allow for more than one flat? If so, should there be an upper limit?

Question E: Do you agree that we have identified the full range of possible issues which might emerge as a result of these proposals? Are you aware of any further impacts that may need to be taken into account?

Question F: Do you think that there is a requirement for mitigation of potential adverse impacts arising from these proposals and for which potential mitigations do you think the potential benefits are likely to exceed costs?

Question G: Can you identify any further mitigation options that could be used?

Question H: How, if at all, do you think any of the mitigation options could best be deployed?

Question I: What is your view on whether the reduced compensation provisions associated with the use of article 4 directions contained within section 189 of the Planning Act 2008 should or should not be applied? Please give your reasons.

Question J: Do you consider there is any justification for considering a national policy to allow change of use from C to certain B use classes?

Question K: Are there any further comments or suggestions you wish to make?