



Department for
Communities and
Local Government

Greater flexibilities for change of use

Report on responses to the consultation

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March 2014

ISBN: 978-1-4098-4179-1

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Introduction

1. The government believes that a proportionate and responsive planning system is vital to deliver the sustainable development needed swiftly and smoothly, freeing up the planning system so that change of use can take place more freely and owners are able to make best use of their property.
2. In the 2013 Budget Statement¹ the government announced its intention to consult on allowing further flexibilities between use classes to support the change of use. The changes would make a strong contribution to the provision of new homes and wider regeneration, supports its firm commitment to high street renewal, and makes an important contribution to reducing the pressure for new green field development by getting brownfield land and empty/under-used buildings back into productive use.
3. Building on the changes introduced in May 2013, the Department for Communities and Local Government undertook a consultation exercise between 5 August and 15 October 2013 on '*Greater flexibilities for change of use*'. The consultation set out options for amending the Town and Country Planning (General Permitted Development) Order 1995 (as amended) to grant permitted development rights to:
 - assist change of use and the associated physical works from an existing building used as a small shop or provider of professional/financial services (A1 and A2 uses) to residential use (C3);
 - enable a shop (A1) to change to a bank or a building society;
 - assist change of use and the associated physical works from existing buildings used for agricultural purposes to residential use (C3);
 - extend the existing permitted development rights for premises used as offices (B1), hotels (C1), residential (C2 and C2A), non-residential institutions (D1), and leisure and assembly (D2) to change use to a state funded school, to also be able to change to registered nurseries providing childcare; and
 - allow a building used for agricultural purposes to be used as a registered nursery providing childcare or a state funded school.
4. We received 852 responses to the consultation. Responses were received from individuals, farmers, businesses, consultants and developers, voluntary sector representatives, local planning authorities and other public bodies. This report is a summary of the responses to this consultation.

¹ 20 March 2013 <https://www.gov.uk/government/news/budget-2013-documents>

Background

5. Under the Town and Country Planning Act 1990, planning controls extend not only to building work but also to changes in the use of buildings or land. Planning permission is usually required for anything that is considered to be a material change of use. Currently the requirement for planning permission for change of use is deregulated through the operation of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended).
6. These are significant deregulatory tools, allowing change of use between land uses that have similar impacts, without the need to apply for planning permission.
7. The Use Classes Order defines broad classes of use for buildings or other land and provides that a change of use is not "development" where the former use and the new use are both within the same use class.
8. There are four main categories in the Use Classes Order:
 - Class A covers shops and other premises such as restaurants and bank branches;
 - Class B covers offices, workshops, factories and warehouses;
 - Class C covers residential uses;
 - Class D covers non-residential institutions and assembly and leisure uses.

There are subsets within each class. In addition there are also uses that are sui generis i.e. in a class of their own.

9. The 2013 Budget announced the government's intention to consult on allowing further flexibilities between use classes to support change of use from agricultural and retail uses to residential. Additional proposals building on the 30 May 2013 package were put forward to further enhance the key objective of supporting economic growth. The proposals strongly support key government priorities for making better use of existing buildings, supporting the high street and rural communities; providing new housing; developing more free schools and contributing to the provision of child care for working families.

Outcome of the consultation

10. The consultation invited comment on five proposals for new permitted development rights and the associated impact assessment. Details of the proposals and responses are provided below.

Summary of responses by question

New homes from old shops

Question 1

Do you agree there should be permitted development rights, as proposed, for shops (A1) and financial and professional services (A2) to change use to a dwelling house (C3) and to carry out building work connected with the change of use?

How do you think the prior approval requirement should be worded, in order to ensure that it is tightly defined and delivers maximum benefits?

11. Of the 603 responses to this question, 50% agreed with the proposal. The majority of individuals were supportive, with business and local planning authorities keen to know more about the details of the permitted development right and the potential impact on the high street. Many responses recognised that:

- the high street has changed, due in part to the rise in on-line shopping;
- the proposals introduced an opportunity to bring under-used shops back into use while helping to meet the need for more homes;
- providing homes in existing sustainable locations could increase the resident population and lead to more vibrant, diverse town centres;
- there were locations away from the main retail frontages where the retail use would never return;
- local and neighbourhood plan policies would recognise where there is an over-supply of retail space and put in place policies to support planning applications for change of use where appropriate;
- in some areas shops premises had originally been houses and would be very suitable for conversion;
- it was appropriate not to extend the proposal to Article 1 (5) land; and
- the prior approval would ensure the design of any works would be sympathetic to the surrounding street scene was also welcomed.

12. Suggestions received to improve the proposal included:

- that the regulations should ensure that public houses would not be able to change use to housing by first exercising existing permitted development rights to change to a retail use;
- consideration should be given to focusing on vacant property;
- the need to recognise the risk of conflicts with neighbouring uses, such as public houses or hot food take-aways, resulting in an increase in statutory nuisance complaints and abatement notices.

13. The government recognises the importance of ensuring a vibrant and varied high street, and retaining an adequate provision of services in other areas. A prior approval will enable local planning authorities to consider the potential impact of

the loss of the retail unit, and whether there is a reasonable prospect of it being occupied by another retail use. Therefore it is considered that vacancy criteria are not required. Prior approval will be required in respect of design and additionally, transport and the risk of flooding. To prevent an abuse of the provisions and protect public houses and other high street uses, the regulations will only apply to premises in A1 and A2 use on 20 March 2013 when details of the proposals were announced.

14. Comments on the proposals to prescribe an upper limit on the number of flats within the 150 m² limit for change of use suggested it may encourage owners to create accommodation that was unsuitably small. Following further consideration there will not be a prescribed maximum number of flats, allowing flexibility to suit local circumstances and individual premises.

Banks on the high street

Question 2

Do you agree there should be permitted development rights for retail units (A1) to change use to banks and building societies?

15. This proposal attracted a high level of support, with 65% of the 558 responses to this question agreeing with the proposal, recognising the complementary role of banks and building societies in supporting the high street and the benefit of supporting new entrants in the market. It was noted that the services they offer are increasingly more retail in nature, and are what one would expect to see in a successful high street. Therefore this new right will be introduced largely as set out in the consultation document.
16. Responses welcomed restricting this change of use to banks or building societies, but a key issue raised was the need to frame a sufficiently tight definition to ensure the change was limited and did not allow subsequent change to other A2 uses such as betting shops or payday loan shops. This has been addressed with the regulations ensuring that a shop can only change to a bank, building society, credit union or friendly society, and that having used this permitted development right they cannot change to another other A2 uses without seeking planning permission. In addition, the regulations will only apply to premises in use or last used as a retail unit on 20 March 2013 when the proposals were announced.
17. The consultation document had also proposed that listed buildings should be excluded from this permitted development right. Comments received indicated a range of views on this proposed restriction. It was suggested that:
- banks and building societies had already proved worthy custodians of many listed building;
 - listed building consent regime was the appropriate route to address any inappropriate changes; and

- reuse as banks and building societies could reduce the potential for valued buildings which are at risk as they remain empty or underused to be regenerated.

The government has therefore decided that the new permitted development rights should apply to listed buildings.

Re-use of agricultural buildings for a dwelling house

Question 3

Do you agree there should be permitted development rights, as proposed, for existing buildings used for agricultural purposes to change use to a dwelling house (C3) and to carry out building work connected with the change of use?

18. Of the 654 people who responded on this issue some 47 % were supportive. Many farmers and other individuals in rural areas were supportive of the measure, welcoming the opportunity it offered to bring forward additional homes for rural communities and make best use of existing agricultural buildings.
19. There was a recognition that planning permission can be difficult to obtain in many rural areas, despite the demand for homes for families who want to live and work in their local communities. Many individual farmers highlighted the need to provide accommodation for workers and family members to sustain their agricultural business
20. There was support for a prior approval to ensure the location, siting and design of any conversion would be appropriate in the surrounding landscape, as well as considering other impacts such as transport and flooding.
21. Other issues raised included:
- a call for greater flexibility over the size of units that could be produced;
 - that allowing demolition may result in the loss of architecturally valuable buildings and their replacement with homes that were out of character with the area;
 - whether there should be provision for a small garden around the building;
 - homes delivered through this permitted development right should be should be for local people;
 - that the interests of the tenant farmer and landowner needed to be balanced so as not to undermine successful businesses;
 - that the prior approval would need to guard against development in unsustainable locations and manage the impact on habitats and species.
22. The consultation document proposed that this right should apply to Article 1 (5) land, protected areas, which includes National Parks, the Broads, Areas of Outstanding Natural Beauty, conservations areas and World Heritage Sites. This proposal attracted strong views, particularly in regard to National Parks and Areas of Outstanding Natural Beauty, where there was concern that it would be difficult to preserve the unique and special character of such areas if this right

was introduced. However there was also recognition that some local planning authorities could take an overly restrictive approach to conversions of buildings. It was suggested that while these areas had protected status there was a duty to ensure the local planning authorities supported the growth of viable communities by providing sufficient affordable homes.

23. The government wishes to ensure protected landscapes are also growing communities. While it has decided at this time that Article 1 (5) land should be excluded from this permitted development use, the government expects National Parks and other local planning authorities in protected areas to take a positive and proactive approach to sustainable development, balancing the protection of the landscape with the social and economic wellbeing of the area. These areas are living communities whose young people and families need access to housing if their communities are to grow and prosper.
24. The government considers that the prior approval with regard to siting and design provides sufficient safeguards to ensure that development only takes place in sustainable locations and any physical works are appropriate to the surrounding area. To further ensure historic barns are not lost it has also decided not to allow total demolition and new build, although limited physical alterations necessary to enable the change of use will be permitted. Recognising that many agricultural units may be substantial in size the regulation will allow up to three dwellinghouses to be created, within a total maximum size of 450 m² on an agricultural unit. This will better support sympathetic conversion and maximise the flexibility of this new right.
25. Some responses to the consultation were concerned about the impact on habitats and species, particularly bats. All changes under permitted development are required to meet necessary habitats and environmental legislation and regulations, and the government considers that this offers the necessary protections.

Supporting working families to find childcare

Question 4

Do you agree that there should be permitted development rights, as proposed, to allow offices (B1), hotels (C1); residential institutions (C2); secure residential institutions (C2A) and assembly and leisure (D2) to change use to nurseries providing childcare and to carry out building work connected with the change of use?

26. Of the 523 responses, 68% agreed the proposed rights would help increase the provision of quality childcare to help working families. It was recognised as a logical extension of the permitted development right for change of use to a state funded school introduced in May 2013.
27. Points raised included
- the potential benefit of bring more childcare in to employment areas;
 - town centre locations making drop off and collection easier;

- the need to ensure accommodation was suitable for young children and
- the need to manage any impacts on residential amenity sensitively

The government considers that the prior approval which will consider transport, highways and noise impacts will address the amenity issues, and the regulation requirements by Ofsted will ensure that premises are suitable for use as a nursery providing childcare.

28. To ensure that the permitted development right is consistent with the approach taken in the May 2013 regulations, the rights will apply in Article 1(5) land.

Provision for children in rural areas

Question 5

Do you agree there should be permitted development rights, as proposed, for buildings used for agricultural purposes to change use to new state funded schools or nurseries providing childcare and to carry out building work connected with the change of use?

29. Of the 526 people who responded to this question, 51% agreed with the proposal. There was particular support for the change of use to registered nurseries to support working families in rural areas and remove the need to travel long distances to find suitable childcare.

30. There was support for a prior approval, as set out in the consultation, to consider the impact of noise, transport, highways, and contamination of a new nursery or school. Properties used as schools or nurseries will be additionally required to meet Ofsted / Department for Education requirements. These will mitigate some concerns raised in relation to the sustainability of the location and the need to manage the risks found on the farm.

Impact assessment

Question 6

Do you have any comments and further evidence on the benefits and impact of our proposals set out in the consultation?

31. 497 people responded to this question with 69% providing comment or support. The majority of responses took the opportunity to provide additional comment on individual proposals, rather than the impact assessment itself. Where comment was provided on the costs and benefits, there was general support that the impact assessment reflected the costs and benefits arising from the proposals.

32. It was acknowledged that the consultation document set out that the prior approval would attract a fee of £80 in respect of institutions to nurseries and agricultural buildings to schools or nurseries, or £172 where operational development is allowed in respect of retail to residential, and agricultural to residential.