



Department for
Communities and
Local Government

New opportunities for sustainable development and growth through the reuse of existing buildings

Summary of responses

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Introduction

1. The Government believes that a responsive planning system is vital to deliver the sustainable development needed swiftly and smoothly, and that the Use Classes Order can be further liberalised to provide a suitable environment for business start-ups, supporting job creation and contributing to the provision of new homes.
2. The Department for Communities and Local Government ran a consultation exercise between 3 July and 11 September 2012 on '*New opportunities for sustainable development and growth through the reuse of existing buildings*'.
3. This consultation was designed to explore the possibility of amending the Town and Country Planning (General Permitted Development) Order 1995 (as amended) to grant permitted development rights to:
 - create permitted development rights to assist change of use from existing buildings used for agricultural purposes to uses supporting rural growth;
 - increase the thresholds for permitted development rights for change of use between B1 (business/office) and B8 (warehouse) classes and from B2 (industry) to B1 and B8;
 - introduce a permitted development right to allow the temporary use for two years within certain classes, where the use is low impact, without the need for planning permission; and
 - provide C1 (hotels, boarding and guest houses) permitted development rights to convert to C3 (dwelling houses) without the need for planning permission.
4. We received 368 responses to the consultation from individuals, private and business consultants and developers, voluntary sector representatives, statutory consultees, non-departmental public bodies, and local authorities. The consultation also attracted a large response from the betting industry, including petitions and campaign letters from high street bookmakers.
5. This paper is a summary of the responses to the consultation.

Background

6. As part of the 2011 Growth Review we undertook to review how change of use is handled in the planning system. 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)**.
 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. The General Permitted Development Order grants a general permission for specified changes of use between some use classes in the Use Classes Order.
 8. There are four main categories in the Use Classes Order:
 - Class A covers shops and other retail 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. A general call for evidence was made through the publication of an Issues Paper in July 2011. The responses broadly indicated that the Use Classes Order remained fit for purpose and an effective tool. Alongside this, the Rural Economy Growth Review identified the importance of diversification in driving economic growth in rural areas through the reuse of existing agricultural buildings for other commercial purposes. Subsequently the Review of the High Street conducted by Mary Portas recognised the Use Classes Order as a deregulatory tool that could be further improved to help support town centres.
 10. The consultation '*New opportunities for sustainable development and growth through the reuse of existing buildings*' focused on proposals that would specifically facilitate growth in the economy. The 2013 Budget Statement recognises that there is scope for further flexibilities in the planning system and has indicated the intention to consult shortly.

Outcome of the consultation

Overview of responses

11. We received 368 responses to the consultation from individuals, private and business consultants and developers, voluntary sector representatives, statutory consultees, non-departmental public bodies, and local authorities. 296 of the responses were representing organisational views and 72 responses were made in a personal capacity.

Summary of responses by question

12. The consultation invited views on four specific areas and a general question on updating definitions within the Use Classes Order. The questions and their results are shown below.

Agricultural buildings

13. The consultation sought views on allowing permitted change of use from an agricultural building to A1 (shops), A2 (financial and professional services), A3 (restaurants/cafes), B1 (businesses), B8 (storage/distribution), C1 (hotels) and for D2 (assembly and leisure).

Question 1: Do you think there should be permitted development rights for buildings used for agricultural purposes to change use to:

- Class A1 (shops), A2 (financial and professional services), and A3 (restaurants and cafes),
- Class B1 (Business) and B8 (storage and distribution),
- Class C1 (Hotels)
- Class D2 (Assembly and Leisure)

Question 2: Should thresholds and limitations be applied to reduce the potential impact of any permitted change of use?

Question 3: Are there circumstances that would justify a prior approval process to allow the local planning authority to consider potential impacts?

14. Of the 275 people who responded to this proposal, 109 agreed with the proposal, and 166 disagreed with allowing agricultural buildings unrestricted ability to convert to other uses and favoured controls remaining in place to protect against unacceptable development in the countryside.

15. The majority of respondents (76%) who commented on this question favoured some controls to guard against unsuitable development, with a lack of suitable transport infrastructure as a main issue.
16. Of the developers and farmers who responded, 50% agreed with the proposal. They noted:
- that agricultural practices had changed over the years and therefore many buildings were now redundant;
 - the proposal would help diversify and support rural economy and stimulate development, whilst keeping buildings in good repair and enabling better use;
 - that size thresholds could help control negative effect of restaurant, cafes and hotels uses in rural areas;
 - the 10 year time limit for new agricultural buildings was fair.
17. From local authorities and parish councils, 23% favoured the proposal suggesting that:
- conversion of large agricultural buildings could be limited by floor space thresholds;
 - permission could also be given to allow some alteration to buildings in order to facilitate the new uses.
18. Some representatives from the voluntary sector and non-departmental public bodies:
- recognised the proposal was useful provided safeguards were in place to protect environment, wildlife and carbon reduction objectives; and
 - favoured prior approval mechanisms to reduce impact on transport/highways and neighbouring amenities.
19. There were also suggestions to include equestrian related uses, care homes and residential dwellings within the proposal.
20. Thoughts from those local authorities and representative bodies who did not favour the proposal included :
- there could be a displacement of agricultural activity and intensification of commercial activity;
 - Section 106/Community Infrastructure Levy are not payable under permitted development;
 - the need to be able to demonstrate a building was constructed before or after the consultation date.
 - the need to manage town centres;
 - the need for suitable flood risk assessments to take place;
 - ensuring tenant farmers rights and communing traditions were upheld;
 - potential impacts on the local area.

21. Comments on the proposed prior approval process included that:
- it was a helpful process as unrestricted ability for buildings to convert to other uses was unacceptable;
 - it would be a suitable tool to help assess potential impact and mitigation measures in relation to traffic, flood risk, residential amenity and highway safety;
 - it would allow size limits and thresholds to be managed including floorspace or room number restrictions, and distances between buildings.
 - it should not be bureaucratic and complex;
 - local authorities should not be allowed to over-exercise their powers and cause delays to development.

Government Response

22. Agricultural buildings that were in place on 3 July 2012 (where exclusions do not apply) will be able to convert to shops (A1), financial and professional services (A2), restaurants/cafes (A3), business/office (B1), storage and distribution (B8), hotels (C1) and assembly and leisure (D2). The existing permitted development rights associated with these uses will not apply where the building was previously in agricultural use. Agricultural buildings will be able to revert back to their previous agricultural use at any time.

23. To ensure appropriate development takes place in rural surroundings, there will be an upper size threshold of 500m² linking to the existing permitted development limit for the construction of new agricultural buildings. Buildings below 150m² limit can take advantage of this flexibility by notifying the local authority of the change. Buildings above 150m² but below the 500m² size limit will need to seek prior approval of the local authority to cover transport, flooding and noise. Change of use for buildings above the 500m² threshold will require specific planning permission as at present.

Commercial premises

24. The consultation suggested doubling the existing size threshold of 235m² for change of use between B1 (business/office) and B8 (warehouse) classes and from B2 (industry) to B1 and B8 to 470m², thereby allowing larger buildings to change use without having to apply for planning permission.

Question 4: Do you agree that the size thresholds for change of use should be increased for change of use between B1 (business/office) and B8 (warehouse) classes and from B2 (industry) to B1 and B8?

Question 5: If so, is 470m² the correct threshold, or should the increase in the limit be larger or more modest?

25. There were 249 responses to this question, of which 141 agreed with increasing the size thresholds, while 108 disagreed.
26. 49% of local authorities responded on this proposal and 38% of developers, farmers and consultants supported it. There were diverse views on the appropriate size threshold with suggestions of both lower and higher thresholds. It was noted the proposed threshold was below the major applications threshold. A number of respondents suggested rounding up the threshold to 500m² or leaving it unchanged.
27. It was also suggested that thresholds could be increased for B1 and B8 uses while maintaining the lower threshold for B2 uses because of potential impact on neighbouring/adjoining uses.
28. Respondents recognised that an increase in the limits:
- provided more flexibility in the use of commercial premises;
 - were overdue for increasing;
 - should be kept under review to prevent negative impacts, e.g. noise, visual impact or traffic;
 - should allow for any existing planning conditions or article 4 directions to apply.
29. Wider thoughts also included:
- The potential for different uses to have different impacts which would need managing;
 - the limits could be increased via a Local Development Order rather than nationally.

Government Response

30. We will increase the thresholds for permitted development rights for change of use between B1 (business/office) and B8 (warehouse) classes and from B2 (general industry) to B1 and B8 from 235m² to 500m².

Temporary uses

31. The consultation proposed that permitted development rights be granted to allow for the temporary use of buildings currently within the A (retail, financial services, restaurants, pubs and hot food takeaways), B1 (offices) and D1 and D2 (non-residential institutions and leisure and assembly) to

other specified uses (Class A1 (shops), A2 (financial and professional services), A3 (restaurants and cafes) and B1 business/offices) for a period of two years.

Question 6: Do you think there should be permitted development rights to allow for the temporary use of buildings currently within the A, B1 (office/business) and D1 (non-residential institutions) and D2 (Assembly and Leisure) use classes for a range of other specified uses for two years?

Question 7: If you agree with the proposal what uses do you think should be allowed on a temporary basis?

32. There were 281 responses to this proposal, with 107 agreeing and 174 disagreeing.

33. Those in favour recognised that high street vacancy rates meant there was an opportunity for the proposal to make a difference by allowing temporary use of some buildings and support town centres. In addition it was noted that this could:

- provide opportunities for start up businesses and community groups;
- be easier for A1, A2 and A3 uses than D1 and D2 uses;
- be preferable if limited to relaxations within classes;
- encourage owners to consider whether rents were realistic.

34. Some respondents suggested that temporary use could be limited to premises that had been vacant for over a year and with a floorspace restriction in place. It was also suggested properties in article 1(5) areas could be excluded. Using Local Development Orders instead of a new national permitted development rights was also proposed.

35. Issues raised included:

- the need for clarity about the process;
- the need for individuals to notify a local authority of their temporary use to ensure enforcement was proportionate;
- the need to be sensitive to existing primary and secondary shopping frontages and be good neighbours;
- as many of the vacant units and temporary uses would be retail (A1) there was no need for the proposal as planning permission would not be required.

Government Response

36. We are putting in place a permitted development rights for A1, A2, A3, A4, A5, B1, D1 and D2 uses to temporarily change use to A1, A2, A3, B1 for a single period of up to two years.

37. There will be a 150m² floor space limit, with listed buildings and ancient monuments exempt alongside any changes in military and safety hazard areas. None of the permitted development rights associated with the temporary use (for physical development or further change of use) will be available during that period.
38. A notification will need to be provided to the local authority when taking up this relaxation. At the end of the two year period, the use of the building will revert back to its original use unless by then a local authority planning permission is in place for the new use.

Hotels to Houses

39. The consultation sought views on the merit of granting permitted development rights to allow hotels to change to residential use. In comparison with the rest of the proposals in this consultation, there was a general lack of support for this idea.

Question 8: Do you think there should be permitted development rights to allow hotels to change to residential use without the need for a planning permission?

Question 9: Should thresholds and limitations be applied to reduce the potential impact of any permitted change of use?

Question 10: Are there circumstances that would justify a prior approval process to allow the local authority to consider potential impacts?

40. Of the 263 who responded on this proposal, 153 disagreed. The majority of respondents (67%) who commented suggested there were likely to be negative consequences in both those areas where the tourist industry was a significant economic contributor as well as larger cities.
41. Those in favour of the proposal:
- generally supported size thresholds so only small hotels which had previously been in residential use to convert to a single residence;
 - suggested local authorities should be able to block conversion of viable hotels;
 - proposed that areas such as those supporting the evening and night-time economy should be excluded.
42. Those not in favour of the proposal noted:
- substantial concerns about the impact on the tourist and business travel industry through the loss of bed spaces

- that landmark and heritage hotel properties could be lost which were irreplaceable;
- contradiction with the Government's Strategic Framework for Tourism (2010 – 20), the Mayor of London's Plan to increase hotel bedspaces; many Local Plans, hotel supplementary planning guidance and core local tourism strategies;
- a loss of opportunity to influence new housing being for families rather than flats and Houses in Multiple Occupation, with a greater risk of conversions being in unsuitable areas with a lack of amenities and poor building design standards;
- that Local Development Orders and Local Plans were better routes to achieve suitable and sustainable conversions;
- that the proposal could result in loss of employment opportunities.

Government Response

43. The Government will look to local authorities to manage effective change of use of surplus or outdated hotel accommodation to new uses through Local Plan policies and, where appropriate, Local Development Orders.

Use Classes Order Definitions

44. The consultation asked whether there were updates or amendments needed to descriptions in the existing use classes.

Question 11: Are you aware of any updates or amendments needed to descriptions currently included for the existing Use Classes?

Question 12: If yes, what is the amendment, and what is the justification?

45. There was considerable support for a national Use Classes Order to ensure consistency and clarity, although some suggested that local planning authorities should be able to create their own use classes. Generally only minor adjustments were suggested to the Order rather than fundamental changes.

46. There were suggestions for reviewing the split between A1 (shops), A2 (financial and professional services) and A3 (restaurants/cafes), uses and A2 (financial and professional services) with B1 (offices/business) uses. Some trade associations and voluntary sector organisations also suggested a number of changes to the C class to reflect extra care/retirement homes, hostels and second homes.

47. The following new use classes were suggested by respondents. This would result in requiring planning permission to change to and from the use:

- Agricultural buildings
- Student housing
- Housing for older people
- Holiday/second homes/visitor accommodation
- Aparthotels
- Large supermarkets (larger than 250m²)
- Equestrian uses
- Shisha bars
- Pay day loan shops
- Older Persons Housing
- Data centres

48. There were also some individual suggestions for changes in respect of nail, beauty and tattoo parlours, computer and small domestic appliance repair shops, funeral directors and undertakers and clinical and medical services.

Campaign responses

49. Two particular uses, betting shops and pubs, attracted a large number of responses even though there were no specific proposals.

50. A number of personal respondents, voluntary sector organisations and London Councils suggested that betting shops should be sui generis as their use most closely resembles that of casinos. Concerns put forward included the inability to control clustering of betting shops on the high street and the different character (including opening hours) that betting shops have to other A2 uses. 543 campaign responses were received from Paddy Power, William Hill and Ladbrokes, along with a petition from William Hill signed by 1,368 people. These advocated betting shops remaining in A2 on the grounds that they add to the vitality and viability of town centres and provide local employment.

51. Some local authorities and industry organisations advocated the removal all permitted development rights which allow pubs to convert to other uses. It was suggested this could help stem the loss of pubs.

Government Response

52. The Use Classes Order will be kept under review. There is scope for local authorities to work with communities to consider whether to remove permitted development rights locally through the use of an Article 4 direction. The local planning authority is then able to consider a planning application for a change in use class in the context of national and local plan policies. In addition licensing arrangements, such as those for the operation of betting shops, which will have a role.