

Report to Development Control Committee

Agenda
Item:
A.4

Meeting Date: 11th October 2013
Portfolio: Economy and Enterprise
Key Decision:
Within Policy and
Budget Framework NO
Public / Private Public

Title: DCLG CONSULTATION - GREATER FLEXIBILITIES FOR
CHANGE OF USE

Report of: Director of Economic Development

Report Number: ED.28/13

Purpose / Summary:

This report summarises the Government's consultation on a number of changes to the current planning system regarding permitted development rights. The report sets out the proposed responses to the questions raised in the consultation.

Recommendations:

That the proposed responses as set out in section 3 of this report (paragraphs 3.5-3.9, 3.11-3.13, 3.16, 3.19-3.20 and 3.24-3.25) are sent to Communities and Local Government as the Council's local planning authority response.

Tracking

Executive:	
Overview and Scrutiny:	
Council:	

1. BACKGROUND

- 1.1 The coalition Government considers that planning is at the forefront of delays to economic investment and has embarked on a series of measures to reduce the legislative burdens created by the existing planning system. This is the latest consultation on a series of changes to existing planning legislation.

2. PROPOSALS

- 2.1 The Town and Country Planning (Use Classes) Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) Order 1995 (as amended) are significant deregulatory tools. They allow change of use between land uses that have similar impacts, without the need to apply for planning permission
- 2.2 It is clear that the dynamics of the market will influence what are likely to be the use of a property and site, and it is important to ensure that the planning system can respond effectively. The Government want decisions to be taken at the right level and consider that this can be allowing an owner to decide on the most appropriate future use of a commercial property where the current use is no longer economically viable. The Government consider it important to focus on bringing empty and redundant buildings back into use and support brownfield regeneration. Increasing the resident population around and near town centres will support the existing shops by increasing footfall.
- 2.3 The Government is proposing action in five areas:
- To create a permitted development right 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);
 - To create a permitted development right to enable retail use (A1) to change to a bank or a building society;
 - To create a permitted development right to assist change of use and the associated physical works from existing buildings used for agricultural purposes to change to residential use (C3);
 - To extend the 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 nurseries providing childcare; and
 - To create a permitted development right to allow a building used for agricultural purposes of up to 500mm to be used as a new state funded school or nursery providing childcare.

- 2.4 The changes proposed in the consultation document are intended to make better use of existing buildings, support rural communities and high streets, provide new housing and contribute to the provision of child care for working families.

3. CONSULTATION

- 3.1 The current consultation by Communities and Local Government ends on the 15th October 2013

Creating New Homes from Old Shops

- 3.2 It is proposed to introduce a national permitted development right for change of use and physical works. This recognises the Portas Review support for more flexibility for change of use on the high street. The scope of the permitted development will be sufficient to provide for the conversion such as new frontage, windows and doors. Prior approval will be required in respect of design, the potential impact of the loss of the retail unit on the economic health of the town centre, the need to maintain an adequate provision of essential local services such as post offices, and the potential impact of the change of use on the character of the local area. This will allow the local authority a period of time to consider whether an application is required in view of the local plan policies for the area. Those local authorities, such as Carlisle, who are still developing and consulting on plans will need to set out in their plan the primary retail areas and wider retail hierarchy, as required by the National Planning Policy Framework. This will inform an authority's decision making when subsequently considering a prior-approval application.
- 3.3 It is the Government's objective that the prior approval criteria should provide local authorities with some discretion, and give a sufficiently robust protection for the main town centre, it should also allow for change of use to proceed in the more marginal locations. However the consultation also states that as with all prior approvals it will be subject to appeal and can be tested if local authorities are found to be using it unreasonably to prevent change of use.
- 3.4 Specifically in framing a new permitted development right for a retail building to change to residential use (C3), with the associated physical development to allow conversion, it is proposed that the right would:
- apply to A1 (shops) and A2 (financial and professional services);
 - have an upper threshold of 150m²;
 - allow conversion to a single dwelling house or a maximum of four flats, but not a small HMO;
 - enable the external modifications sufficient to allow for the conversion to residential use;

- not apply in article 1(5) land asset out in the General Permitted Development Order (i.e. conservation areas, National Parks, Areas of Outstanding Natural Beauty, the Broads and World Heritage sites);
- be subject to a prior approval for design to ensure that physical development complies with local plan policies on design, material types and outlook;
- be subject to a prior approval allowing account to be taken of the potential impact of its loss on the economic health of the town centre, the need to maintain an adequate provision of essential local services such as post offices, and the potential impact of the change of use on the local character of the area. In order to ensure the policy delivers maximum benefits, we wish this to be a tightly defined prior approval, and would welcome suggestions about specific wording which would achieve that.

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?

- 3.5 Proposed Response: It is recognised that around the fringes of shopping areas there may be some changes of use which will contract the spread of retail functions and in certain circumstances a change of use may be appropriate. It is welcomed that these proposed changes would not apply in conservation areas as this covers the main historic retail centres in Carlisle, Brampton, Longtown and Dalston. Ensuring that the permitted development rights do not apply in conservation areas will help to protect the City Centre.**
- 3.6 It would however apply to smaller centres which are at the heart of local communities. These smaller centres rely on small independent businesses and owners of these properties may find conversion to residential a more lucrative return especially when linked to other government policies encouraging home ownership. As a consequence smaller centres may find that change of use to residential will break up the shopping areas having a further effect on footfall and directly affecting the health of those smaller centres.**
- 3.7 It is therefore essential that there is a prior approval system in place but the system needs to consider the health of individual shopping centres and not just the town centre. For example conversions to residential use in smaller centres such as Denton Holme in Carlisle would not impact on the main retail centre in Carlisle but would have an impact on the local centre and the prior approval needs to ensure the local impact where the shop is located is taken into account and not just a reflection of the NPPF sequential approach on the main centre.**

- 3.8 **Some property owners may see this as an opportunity not to renew leases on properties and close down small independent operators. It would therefore be more practical to introduce an element of vacancy of premises so that there is no direct consequence on small operational businesses for example, the premises needs to have been vacant for 6 months. This would act as a deterrent to those seeking not to renew leases.**
- 3.9 **In addition some late night uses may have been given planning permission due to existing neighbouring property uses, e.g. bars, clubs, take-aways. The mix of uses needs to be taken into account in prior approval as putting residential use adjacent to late night uses may not create satisfactory living conditions and may result in nuisance complaints for other statutory functions to deal with. This will have further impacts on local businesses.**

The Place of Banks on our High Street

- 3.10 It is proposed to recognise the changing nature of banks and building societies by providing a tightly prescribed permitted development right that would allow A1 uses to change use to banks and building societies only. There would be no change permitted to other A2 uses subsequently. The Government will consider whether there would be merit in setting an upper size threshold, given the intention is that this will apply to banks where services are provided principally to visiting members of the public.

Question 2

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

- 3.11 **Proposed Response: Whilst it is recognised that the nature of banks and building societies is changing in relation to their appearance there may be unintended consequences for the high street if permitted development rights are changed. Some banks operate from traditionally constructed (often listed) buildings which require higher maintenance. Making it easier for them to relocate into former A1 premises may inadvertently create moves within the retail centre creating empty properties (i.e. former banks) which are difficult to re-use. An upper size threshold may help to prevent this from happening.**
- 3.12 **There is also the concern that if the basis upon which this change to permitted development rights is due to the nature of the appearance of banks and building societies then it follows that betting shops and other A2 uses would soon follow on the same argument and consequently undermine the retail centre. The rationale for this change of use appears weak.**

- 3.13 **These unintended consequences will have a negative impact and therefore we object to the proposed change.**

Re-use of redundant agricultural buildings for a dwelling house

- 3.14 In framing a new permitted development right for an agricultural building to change to residential use (C3), with the associated physical development to allow conversion, it is proposed that the right would:

- allow up to 3 additional dwelling houses (which includes flats) to be converted on an agricultural unit which existed at the time that the intention to consult was announced in the Budget Statement of 20 March 2013.
- have an upper threshold of 150m² for a single dwelling house;
- enable the physical development necessary to allow for the conversion, and where appropriate the demolition and rebuild, of the property on the same footprint;
- include prior approval for siting and design to ensure physical development complies with local plan policies on design, materials and outlook;
- include prior approval for transport and highways impact, noise impact, contamination and flooding risks to ensure that change of use takes place only in sustainable locations;
- apply to agricultural buildings constructed prior to announcement of the proposal to consult in the Budget Statement of 20 March 2013;
- apply in article 1(5) land as set out in the General Permitted Development Order (i.e. conservation areas, National Parks, Areas of Outstanding Natural Beauty, the Broads and World Heritage sites).

- 3.15 At the point of these changes coming into force they would not apply to new buildings. In addition the reference to 3 dwellings is irrespective of the size of holding and number of buildings on the holding. Three would be the permitted limit over which permission would be required.

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?

- 3.16 **Proposed Response: Protecting the character of the countryside has long been a principal aim of our planning system. Agricultural buildings have been built to ensure we have a viable agricultural industry but their location and scale may be unsuitable for residential development especially in large rural areas. Scattered residential properties will detrimentally affect the character of the countryside and this cannot be adequately mitigated by the prior approval system proposed. All conversion of agricultural buildings to residential use should continue to require full planning permission and local**

planning authorities should be able to consider a full range of planning considerations in deciding their suitability.

Supporting working families to find childcare

- 3.17 The consultation proposes to relax planning rules so that non-domestic early-years childcare providers can deliver additional and high quality places to meet increasing demand
- 3.18 The proposed changes would 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 carry out limited building works, as allowed for schools under Part 32 of the General Permitted Development Order, connected with the change of use. The school permitted development rights were restricted to state funded schools. This reflected the policy importance attached to ensuring there were sufficient state school places available for all children whose parents wished to use the state sector. It is proposed that the permitted development right is applied only to registered early years childcare providers in non-domestic premises. The prior approval requirements in respect of transport and highways impact, noise and contamination risks that are in place for state-funded schools would also be replicated here.

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?

- 3.19 **Proposed Response: It is recognised that access to childcare and nurseries is important to satisfy the requirements of working parents. Utilising existing buildings and making it easier for them to change use on the surface would be reasonable. School trips are however one of the most intensive uses which impact on travel to work patterns and impacts on the local highway network. It is important that transport and highways impacts are retained for prior approval.**
- 3.20 **It is noted that the intention is to create high quality places and whilst the changes should be focussed on registered providers there is no control over the quality of buildings to be converted. Older hotels and office buildings may have suitable internal space to be converted but the external space and safe environment around the premises may be lacking. Some consideration needs to be given to the neighbouring uses especially for the conversion of office buildings on industrial estates and the safety of children.**

Provision for children in rural areas

- 3.21 It is proposed to build on the approach adopted for the agricultural permitted development rights to bring forward provisions for allowing change of use to state-funded schools as well as nurseries providing childcare.
- 3.22 The permitted development will allow for change of use with prior approval where the gross floorspace of the building is less than 500m². This upper threshold would be the same as for the existing permitted development right for agricultural buildings to change to various commercial uses, and will ensure that a number of farm buildings would be able to change their use under these new permitted development rights. The prior approval will cover noise, transport, flooding and contamination. This combines the existing permitted development prior approval requirements for agricultural buildings and schools. It is proposed that operational development should be permitted to the same extent as for agricultural buildings changing use under existing permitted development rights, i.e. a modified form of the operational development rights available under Class B of Part 41 of Schedule 2 to the General Permitted Development Order.
- 3.23 The permitted development right will be available in respect of more than one building on an agricultural unit, provided that the overall size limits are not breached. In recognition of cumulative impact, any proposed changes which take the cumulative size above the 500m² limit would trigger the need for a planning application.

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?

- 3.24 **Proposed Response: For a district with a large rural area the opportunity for any agricultural buildings to convert to a school or nursery raises questions about how sustainable this development would be. It is already recognised that re-use of assets such as agricultural buildings would be sustainable in the context of residential use but to encourage changes to travel patterns to access a school would have greater sustainability impacts.**
- 3.25 **Once a school or nursery was established it would be difficult to resist its extension especially as pupil to teacher ratios are increasing. This would have implications with further changes to travel patterns to new locations unless there was some relationship to the geographical context over which permitted development rights were restricted e.g. only permitted within a certain distance of the local population being served, to ensure sustainable schemes are brought forward.**

Benefits and Impacts of the Proposals

- 3.26 Government considers that there will be benefits in the removal of a requirement to submit a planning application whilst retaining some element of assessment by utilising prior approval mechanisms. This allows local authorities to focus on larger developments.

Question 6

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

- 3.27 No further comments to add

4. CONCLUSION AND REASONS FOR RECOMMENDATIONS

- 4.1 The proposed changes whilst having good intentions could have a number of implications within Carlisle District. Whilst it is recognised that there is an intention to speed up the process of change of use, the consequences of allowing these changes could make the situation worse. Some retail areas may be contracting however by allowing permitted development changes would not necessarily target those units on the fringes where change of use may be acceptable and have less impact. Other changes of use in the rural area may have significant impact by increasing the amount of sporadic development throughout the countryside away from other service provision and conflicting with the principle of sustainable development. As a consequence of these overall concerns the responses in paragraphs 3.5-3.9, 3.11-3.13, 3.16, 3.19-3.20 and 3.24-3.25 should be sent to Communities and Local Government as a response to this consultation

5. CONTRIBUTION TO THE CARLISLE PLAN PRIORITIES

- 5.1 The proposals seek to encourage investment and therefore economic growth however there are concerns that there may be unintended consequences which would be detrimental to the district. The proposed response would protect against those consequences.

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Appendices

attached to report:

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:

- None

CORPORATE IMPLICATIONS/RISKS:

Chief Executive's -

Community Engagement –

Economic Development –

Governance –

Local Environment –

Resources -