



Relaxing planning controls over changing use from business to residential

**A response by Civic Voice to DCLG's consultation
June 2011**

1. Civic Voice is the national charity for the civic movement, working to make the places where everyone lives more attractive, enjoyable and distinctive and promoting civic pride. We know how important effective planning is to these goals and given this role it is no surprise that civic volunteers are the most numerous participants in the planning system. This response to proposals to extend permitted development rights to change of use from business to residential is informed by their practical experience and local outlook.

Summary

2. We recognise the Government's commitment to securing economic growth and meeting the country's housing needs. We believe the planning system has an important contribution to make to achieving these and wider sustainable development objectives through effective management of new development and change of use within a strong development plan framework at the local level. The consultation starts from a different assumption - that requiring express planning consent for changing the use of a building from commercial to residential is inimical to securing economic growth and providing new homes. We do not agree with this premise or the crude proposals which follow to extend permitted development rights at a national level.

3. The blunt proposal to extend permitted development rights cuts across the drive towards localism by preventing a wide variety of local land use impacts from being considered in context and removing the right for communities to have a say. It is also likely to have perverse economic impacts, introduce major market distortions and have a minimal impact on meeting housing needs. The consultation paper's assertion that "*a key barrier to increasing housing supply is the lack of land available for residential development*" is also highly contested, especially given the copious amounts of land already allocated for housing in viable locations which contribute to the wider public interest.

4. Civic Voice recognises that there will be occasions where business use can readily be converted to residential. Our preferred option is for this to take place through the normal planning application process. Where relevant, local planning authorities already have the option to prepare planning briefs to support change of use and to use Local Development Orders to designate areas where they believe permitted

development rights for such a change of use would be beneficial in particular areas. This could be supported by a positive policy stance.

Key issues

5. We have identified the following problems with the proposals:

Excluding communities – the requirement for a planning application to be considered by the local planning authority is a key means for local communities to have a say on the changes that affect their area. The Coalition Government has placed great emphasis on enhancing this role and putting “*communities in control*”. The proposals would remove any right for communities to have a say through the normal planning process and cut directly across the commitment to localism

Community infrastructure provision – the proposals would create anomalous windfall gains for those developers able to use permitted development rights to circumvent the existing and future requirements to provide a variety of community infrastructure through Section 106 agreements and the Community Infrastructure Levy, including affordable housing and schools. The Government has emphasised the importance of communities “*sharing in the benefits of development*” in its planning reforms. This would be removed where change of use is allowed without express consent and this would also distort the position of other developers who would still be required to provide the necessary infrastructure elsewhere

Perverse economic impacts – contrary to the way the proposals have been promoted they are not limited to vacant premises. As a result important business clusters risk being jeopardised by the higher land values which can be secured for residential use in many areas – e.g. the cluster of around 100 high-tech start ups around Silicon Roundabout, Shoreditch which has recently received a £1m boost from the Government’s Technology Strategy Board and been supported by the Prime Minister would never have materialised. As Prime Minister David Cameron has said, “*something is stirring in east London....we can help make East London one of the world's great technology centres*” (speech, 4/11/10). These proposals would bring such ambitions to an end as residential uses move in. They would also have perverse impacts in many other less high-profile locations where employment uses would be lost to housing whatever the intention of a local or neighbourhood plan

Loss of the plan-led system for business – Ministers have placed great emphasis on the plan-led system and the desire for the development plans drawn up by local planning authorities, neighbourhood forums and town & parish councils to be “*sovereign*”. The ability of development plans to establish a forward-looking prospectus and secure its delivery through appropriate policies and land allocations would be removed by the proposed extension of permitted development rights. As well as undermining efforts to support existing business uses in key locations it would render all allocations of land for mixed or business use irrelevant as the principle of the change of use to housing would be established whether or not any construction had taken place. As a result we can expect:

- ▀ the conversion of well-located, attractive office blocks to flats due to the relief from affordable housing and parking requirements, through the windfall increase

- in land values – introducing a major market distortion compared with normal housing sites, by financially “incentivising” the conversion
- ☛ the conversion of secondary offices that currently provide the supply of affordable office premises for small firms and start-up businesses
 - ☛ the stripping out of small offices from residential areas – negating something successive Governments have tried to encourage
 - ☛ a loss of mixed use development as a result of business uses being stripped out of proposals at an early stage of negotiation with applicants
 - ☛ a general reduction in the supply of premises for small businesses.

Many of these changes would be almost impossible to reverse and will cause problems in perpetuity.

Perverse impacts on actively used buildings – the tenor of the consultation has been to promote the measures as a means of encouraging vacant office premises to be put to good use. In reality the broad scope of the proposed permitted development rights would result in the developers choosing attractive, well located, easily converted properties which are currently in active use over vacant, derelict and poorly maintained ones and so the claimed benefits are unlikely to materialise and the perverse impacts will be even greater

New business neighbours – the lack of any planning controls is likely to lead to significant increases in the problems of having business and residential uses cheek by jowl with complaints and tensions becoming a cause of grief and distress for all involved. This would be particularly evident in relation to traffic and noise and it would lead to a growing number of noise abatement orders being served against business uses that remain in the area

Absence of conditions – an additional problem with the proposals is that the lack of a planning application would mean that no conditions could be introduced relating to the development. This would make it impossible to take action to improve the external appearance of the building, manage the level of car parking, provide open space, use obscure glass to prevent overlooking, fit noise insulation, require grey water systems and green roofs, control the additional of balconies and roof terraces etc

Uncertain scope – there is considerable confusion in the proposals over the extent of the changes proposed. The public emphasis has been on converting vacant offices into flats but the consultation paper seems much more widely drawn, embracing all commercial uses, buildings in active use and even land

Uncertain evidence base – we find the evidence base underpinning the proposals to be particularly weak and unconvincing. We have seen no evidence overall to show that changes of use to residential are not being granted effectively through the normal planning process. National data on the scale of vacant commercial property is a poor indicator without any understanding of the nature and location of such properties. The proposals are also not restricted to vacant premises. We are also unconvinced that the evidence presented on the proportion of new housing units coming from conversions of commercial buildings can be compared with that from the redevelopment of existing housing as one relates to building conversion and the other to the redevelopment of

land. The approach also seems to lack any appreciation of the fact that housing is by far the largest user of land.

6. The only remedy proposed to many of the problems identified above is for local planning authorities to use Article 4 Directions to withdraw permitted development rights or introduce prior approval. In our experience it would be unworkable to introduce Article 4 Directions on the scale required, especially given the Government's lack of support for measures to reduce the likelihood of compensation being payable. We would find prior approval an unhappy compromise. It has a poor track record, as evidenced by the current dispute over the installation of broadband street cabinets under the prior approval arrangements for telecommunications apparatus. It would be less time consuming and resource intensive all round to operate normal planning controls.

Wider implications

7. We are also concerned by the approach in the context of the Government's wider review of the Use Classes Order. We do not consider this to be a deregulatory tool but one which should play an important role in helping deliver policy objectives. A prime example is the Government's welcome emphasis on putting the "*town centre first*" where the Use Classes Order could play an even more significant role in managing the mix of shops and services, controlling expansion and managing the cumulative impacts of some uses such as betting shops, and supporting the location of key uses in the most accessible locations.