



## Planning Committee

12<sup>th</sup> July 2011

### Report from the Assistant Director, Planning & Development

Wards affected:  
All

**Report Title: Government Consultation – Relaxation of Planning Rules for Change of Use from Commercial to Residential**

#### 1.0 Summary

- 1.1 This report explains the recent Government consultation on relaxation of the planning rules for change of use from commercial to residential use, sets out the Council's response made by officers and asks Committee to endorse this.

#### 2.0 Recommendations

- 2.1 That Planning Committee endorses the response made by officers to the consultation.

#### 3.0 Detail

##### Introduction

- 3.1 The Government is committed to reforming the planning system so that it supports economic growth and drives an increase in the supply of land for housing. It has proposed, through the consultation, to achieve this by relaxing the planning rules for change of use from commercial to residential use
- 3.2 The consultation formally ended on 30<sup>th</sup> July so an officer response has been put to Government. If Committee wishes to add to or amend what has been put forward as Brent's formal response then this can be sent to the relevant contact within the Department of Communities and Local Government (CLG). It is anticipated that the Government will make a decision on how to proceed with the proposals before the end of the year.

##### Proposals

- 3.3 The key proposal is to introduce permitted development rights to allow changes of use from B1 (business – offices, research and development premises and light industry) to C3 (dwelling houses) to happen freely without the need for planning applications. In this way it is anticipated that developers will bring forward more proposals for housing.
- 3.4 In addition to this, the consultation document goes on to say that there is a strong case for making changes of use from B2 (general industrial) and B8 (storage and distribution) to C3 (dwelling houses) permitted development and there is also an opportunity to build on the current situation whereby it is possible to convert unused space above a shop into a flat.
- 3.5 These proposals relate only to change of use. Where a development requires any additional work to the exterior of an existing building, or is a new build development, a planning application for this operational development will be required in the normal way.
- 3.6 The Government's stated aim is to ensure that all unnecessary regulation is minimised and that good quality proposals are not delayed by the planning system. The Government believes that greater freedoms will also encourage the more efficient use of land and buildings through enabling more direct responses to clear price signals. In other words the view has been taken that market forces will ensure efficient use of land by, for example, making better use of buildings that are no longer needed and/or unsuitable for their original purpose.

### **Brent Response**

- 3.6 The response put in by officers is attached as Appendix 1. This can be summarised as follows:
- Brent welcomes the Government's emphasis on the delivery of new homes but disagrees strongly with the proposal to allow the change of use from business use class (B1, B2 and B8) to residential use class C3 to constitute 'permitted development'.
  - Concern about the potential impacts of the proposals on the ability of local planning authorities to prevent inadequate and sub-standard housing being provided in areas where residential amenity standards will be low.
  - Concern that the incursion of residential property into key industrial locations would have an adverse impact on the operation of businesses, with a consequent damaging effect on the economy.
  - The ability to plan for sustainable communities will be undermined and, in particular, it will be difficult to ensure that appropriate supporting infrastructure, such as school accommodation, is provided. There will be a loss of Section 106 and Community Infrastructure Levy income to local authorities. It is considered an unrealistic expectation that developers will volunteer contributions in order to ensure that their development was more attractive to buyers, as suggested in the consultation document.

- Not only is the proposed relaxation of controls undesirable because of the potential adverse impacts that would arise, but they are also wholly unnecessary because it is based on the unfounded assumption that it is the planning system that is preventing sufficient new housing from being delivered.
- It is factors affecting the ability of developers to deliver consented schemes that need to be addressed.

#### **4.0 Financial Implications**

- 4.1 A potential direct implication, should the proposed changes to be introduced, is that it is likely that there would be a reduction in income to the borough from planning application fees. It would be difficult, and require additional resources, to monitor the level of new housing provided by the relaxation of planning rules. It is likely that the Council could lose part of its entitlement under the new homes bonus which is based on the level of new housing completions in the local authority's area.

#### **5.0 Legal Implications**

- 5.1 The introduction of the proposed relaxation would immediately render key aspects of the statutory development plan, such as restrictions on the type of use acceptable in Strategic Industrial Locations, as out-of-date thus requiring a review of policy.

#### **6.0 Diversity Implications**

- 6.1 If sub-standard homes are provided in areas with poor residential amenity then this will disproportionately affect certain sections of the community.

#### **7.0 Staffing/Accommodation Implications**

- 7.1 There are no staffing or accommodation implications arising directly from this report.

#### **8.0 Environmental Implications**

- 8.1 It is feared that mixing housing and certain business operations will result in an inferior living environment. The council will be unable to require its usual standards of design and landscaping. It will also not be possible to require the particular standards for sustainable buildings set for the Growth Areas of the Borough in the Core Strategy when implementing the Code for Sustainable Homes.

#### **9.0 Background Papers**

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

Consultation, CLG April 2011

<http://www.communities.gov.uk/publications/planningandbuilding/relaxationchangeconsultation>

#### **Contact Officers**

Any person wishing to inspect the above papers should contact Ken Hullock, Planning & Development 020 8937 5309

**Chris Walker**  
**Assistant Director, Planning & Development**

# Appendix 1 – Copy of Response to Government



REGENERATION AND MAJOR PROJECTS  
Director: Andy Donald

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Theresa Donoghue  
Consultation Team (Commercial to Residential)  
DCLG  
Eland House  
Bressenden Place  
London SW1E 5DU

Date: 29 June 2011  
Your ref:  
Our Ref:

Dear Ms Donoghue,

## **Consultation on Change from Commercial to Residential Use of Property**

The London Borough of Brent welcomes the opportunity to comment on the consultation on the relaxation of planning rules from commercial to residential use.

Brent recognises the urgent need for new housing and has identified a particular need for the delivery of affordable housing in the borough. As a local planning authority, the Council has been very pro-active in identifying housing sites, preparing positive plans and delivering planning consents. The Council has in place an adopted Core Strategy which plans for the delivery of new homes which exceeds the targets set out for Brent in the London Plan. In pursuit of this target, the Council gave consent to over 2,000 new homes in 2010/11, which substantially exceeds that which would need to be delivered to achieve the target.

Brent welcomes the Government's emphasis on the delivery of new homes but disagrees strongly with the proposal to allow the change of use from business use class (B1, B2 and B8) to residential use class C3 to constitute 'permitted development'.

Brent's response to the questionnaire is attached. In summary, the Council is concerned about the potential impacts of the proposals on the ability of local planning authorities to prevent inadequate and sub-standard housing being provided in areas where residential amenity standards will be low. At the same time, the Council is concerned that the incursion of residential property into key industrial locations would have an adverse impact on the operation of businesses, with a consequent damaging effect on the economy. Not only is the proposed relaxation of controls undesirable because of the potential adverse impacts that would arise, but they are also wholly unnecessary because it is based on the unfounded assumption that it is the planning system that is preventing sufficient new housing from being delivered. There are now consents for over 8,500 new homes in the housing pipeline in Brent. In Brent's experience the solution to the problem of the delivery of too few homes will not be provided by the relaxation of planning rules. Indeed, the planning system has been extremely successful locally in pro-actively promoting the development of new housing. It is factors affecting the ability of developers to deliver consented schemes that need to be addressed.

Yours sincerely

Chris Walker  
Assistant Director, Planning & Development

## 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?**

Yes  No

**Please give your reasons:**

There is sufficient site capacity for new housing, suggesting that the planning system is not at fault in ensuring the sufficient new housing is built. Within Brent for example there are currently outstanding consents for over 8,500 new homes.  
Current plans and practice already enable appropriate use of land for residential and business purposes.  
The ability to plan for sustainable communities will be undermined and, in particular, it will be difficult to ensure that appropriate supporting infrastructure is provided.  
There are B1 premises in areas such as Strategic Industrial Locations where change to residential will be inappropriate because of potential impacts on the operation of businesses

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?**

Yes  No

**Please give your reasons:**

For the reasons outlined in the response to question A above and:

- There will be negative impacts on businesses from the mixing of residential uses with business use;
- Industrial and other commercial land will be lost to employment purposes thereby making the economic recovery more difficult. Economic growth will be undermined by both the negative impact upon businesses and by the loss of employment land. A wide range of different types of employment land is needed to support the complex and diverse economy that exists in the area and impacts will inevitably be felt more by certain sectors. Land that is most vulnerable to the proposed changes is likely to be the more marginal industrial locations. This accommodation is particularly important to SMEs and start-up businesses due to its affordability.
- It is not clear what would be effective measures to mitigate the risk of homes being built in unsuitable locations. For instance, noise generated from residential is discussed but not the impact of noise from existing businesses on new residential property. The statement that the market will make sensible decisions because homes in unsuitable locations will be hard to sell ignores the low cost rental market that exists. Without the controls provided by the planning system the market will

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?**

Yes  No

**Comments:**

There would be concerns about the potential reversion to business use where properties have been converted to residential and, as a consequence, servicing facilities necessary for business operation have been lost. The operation of

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?**

Yes  No

**If so, should there be an upper limit?**

Yes  No

**Comments:**

There is a need to set an upper limit where there are ground floor retail premises with large offices above where many flats could be provided without necessary

Question E:

**Do you agree that we have identified the full range of possible issues which might emerge as a result of these proposals?**

Yes  No

**Are you aware of any further impacts that may need to be taken into account?**

Yes  No

**Comments:**

New homes created under this policy change may be low quality, without conforming to lifetime homes, living space or environmental standards  
There are very real and potentially expensive costs relating to use conversion that may not be accounted for without the planning process, including compliance with safety requirements, introducing supporting infrastructure, and the appropriateness of converting commercial premises to housing use.  
There will be a loss of Section 106 and CIL income to boroughs which is a valuable resource used to provide homes and infrastructure, as well as possible loss of business rates income in the future  
The proposal potentially undermines a local planning authority's ability to effectively plan for longer term community infrastructure such as schools.  
There is a significant threat that the higher land values for business sites converted to

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 the potential costs?**

Yes ✓ No

**Comments:**

The consultation identifies potential problems with community infrastructure provision, amenity, housing mix, transport accessibility, loss of employment land, and noise and pollution. The Council agrees broadly with this list, but believes that impacts will not always be capable of successful mitigation, particularly for instance mitigating transport impacts when parking provision is a problem or mitigating the impacts of residential on the operation of businesses. It is not considered that a

Question G:

**Can you identify any further mitigation options that could be used?**

No.

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?**

Yes  No ✓

**Please give your reasons:**

This would depend to some extent upon the nature of the B use class but it is difficult to envisage circumstances where residents in a typical suburban area would be accepting of the incursion of businesses into the neighbourhood, especially ones which generate significant numbers of car trips.

Question K:

**Are there any further comments or suggestions you wish to make?**



No.