

PLANNING COMMITTEE – 21 AUGUST 2012

CONSULTATION: NEW OPPORTUNITIES FOR SUSTAINABLE DEVELOPMENT AND GROWTH THROUGH THE REUSE OF EXISTING BUILDINGS

REPORT OF HEAD OF PLANNING

WARDS AFFECTED: ALL WARDS



Hinckley & Bosworth
Borough Council

A Borough to be proud of

1. PURPOSE OF REPORT

- 1.1 To advise Members of, and to seek Members agreement on the appended consultation response on the proposed changes regarding the new opportunities for sustainable development and growth through the reuse of existing buildings, issued by the Department of Communities and Local Government in July 2012.

2. RECOMMENDATION

21 That Members:

- (i) note the content of the report; and
- (ii) agree the responses to the questions raised as detailed within this report.

3. BACKGROUND TO THE REPORT

- 3.1 This consultation paper sets out the Government's proposals to increase the range of "permitted development" for which planning permission is not required. These changes relate to the reuse of existing and redundant agricultural buildings and general changes to the Use Class Order.
- 3.2 The proposed changes stem from the Governments commitment to promote sustainable development and simplify and deregulate the planning system as far as possible but to retain adequate control.
- 3.3 Under the Town and Country Planning Act 1990, development control extends not only to building work but also to changes in the use of buildings or land. Planning permission is usually required for material changes of use. What constitutes a material change of use is a matter of fact and degree, to be determined in each case by the local planning authority.
- 3.4 Certain uses are so similar in planning land use terms that to require planning permission to change would be unnecessarily burdensome. To relieve the planning system of such unnecessary applications, the legislation excludes from the definition of development any change where both the existing and the proposed use fall within the same class within the Town and Country Planning (Use Classes) Order 1987 (as amended).
- 3.5 Uses fall within four main categories:
- 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.

- 3.6 Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) grants a general permission for specified changes of use between some use classes in the Use Classes Order. It achieves this by classifying certain changes between the use classes as permitted development i.e. planning applications are not required.
- 3.7 The existing Use Classes Order and associated permitted development rights could be seen as “a presumption in favour of change of use” where the land use impacts are considered sufficiently similar. This means that a change of use can be established in advance of a planning application for associated physical development being submitted to the local planning authority. This removes uncertainty for the applicant in relation to change of use, with the local planning authority only required to consider the merits of the physical development.
- 3.8 The proposed changes relate to:
- Re-use of existing and redundant agricultural buildings
 - Increases in permitted development rights for changes between B1, B2 and B8 uses
 - Temporary Use of Buildings
 - Hotels to Houses
 - Updating definition within the Use Classes Order
- 3.9 **Re-use of Existing and Redundant Agricultural Buildings**
- 3.10 The Government believes there are opportunities that could arise for diversification and sustainable economic growth in rural areas if more existing and redundant agricultural buildings were re-used for other commercial uses where there is no longer an agricultural need. Currently, such buildings require planning permission for any change of use.
- 3.11 Possible options that could allow such changes to be made have been considered. Agriculture and the use of existing agricultural buildings are not development in terms of planning legislation. Therefore it would be inconsistent to create a use class for agricultural buildings which allowed for wider uses beyond agriculture.
- 3.12 The Government considers it would be possible to provide a permitted development right that allowed conversion of existing buildings used for agriculture to be used for other purposes. These uses could be specified. There are already permitted development rights for the construction of new buildings for agricultural use. To prevent proliferation of new buildings being constructed with the intention of conversion to commercial uses, it is proposed that this recommendation, if it were brought forward, would apply only to agricultural buildings already in existence on the date this consultation is published. However the Government is also seeking views on whether there should be a threshold of a building constructed after this consultation document has been published having the same permitted development rights provided it has been in agricultural use for 10 years. This proposal is considered to support the wider proposals of the Rural Economy Growth Review.
- 3.13 It is proposed that the changes of use of buildings for agriculture that would be permitted would be to other relatively low impact business uses (e.g. workshops, offices, storage, food processing, cafes, leisure). They would be implemented without a requirement for submitting a planning application providing opportunities for other rural business to expand and grow in these existing premises.
- 3.14 Acceptable changes of use would need to be carefully defined to avoid high-impact development occurring without the opportunity for local consideration, to ensure no unintended reduction in the flexibility already afforded to farm businesses and to

avoid giving an unfair competitive advantage. The proposal would also exclude statutorily designated explosive safeguarding zones.

3.15 **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)

3.16 **Answer 1**

No. Land availability is generally greater in rural areas for obvious reasons and the introduction of a simplified planning regime in rural areas will result in a green light for inappropriate and unsustainable development. This will inevitably damage the intrinsic value of the predominately undeveloped character of the countryside, harm the sustainability of urban centres and will be in general conflict with the intentions of NPPF's commitment to defining and supporting sustainable development. There is a real chance that the existing provisions for agricultural permitted development will be abused to allow for indirect changes of use.

3.17 **Question 2**

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

3.18 **Answer 2**

Whilst the proposed approach cannot be supported, if it were to be brought in it must be adequately controlled and floor space thresholds and use limitations will be required to ensure there is a degree of control available. Limitations in respect of the existing agricultural permitted development regime must also be introduced to prevent abuse and indirect changes of use.

3.19 **Question 3**

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

3.20 **Answer 3**

Whilst the proposed approach cannot be supported, the prior approval process along with strict criteria for consideration would be required to ensure that the LPA retains control, particularly in respect of sensitive landscapes, ecology, residential amenity and highway safety. Highway design in rural areas is not always suited to commercial development and conventional mitigation can be visually harmful, particularly through "engineered" solutions such as visibility splays that require hedgerows to be removed. Agricultural buildings tend to be low impact in terms of traffic movements and uncontrolled changes of use could materially alter this and without controls in place prove harmful to highway safety in remote rural locations, which are generally unlit and in poorer condition than urban roads.

3.21 **Increases in Permitted Development Rights for Changes Between B1, B2 and B8 Uses**

3.22 Currently, permitted development rights exist to allow limited changes of use between B1 uses (including offices, high technology and light industry) and B8 (storage and distribution). They also provide for change from B2 uses (general industry) to B1 and B8 uses. The current size limit for permitted development is 235m². This is relatively modest and has not changed for some time.

3.23 Many businesses reshape their operations and reconfigure how they use their buildings in response to changing demand and technological innovation. An increase in the size limits for change of use would therefore provide more flexibility to business in the use of their premises without significant impacts. Given this is for change of use and not new development it should be of minimal impact. An initial new limit for consultation is that the limit be doubled to 470m², and views are sought on the desirability of larger or more modest increases in the size limits.

3.24 **Question 4**

Do you agree that the size thresholds for change of use should be increased?

3.25 **Answer 4**

Yes. The approach is generally supported but it is recognised that this would result in a reduction of application fees.

3.26 **Question 5**

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

3.27 **Answer 5**

Yes. This keeps the permitted changes below the major application threshold and therefore at an acceptable level that is unlikely to have a detrimental impact upon third parties.

3.28 **Temporary Use of Buildings**

3.29 The Government is committed to supporting new businesses and enterprise. It has been suggested that some new business ideas are inhibited as seeking planning permission for change of use sometimes means a commercial opportunity is missed. Also some new businesses will only really be certain of their use class after being able to test the market and refine their business model.

3.30 To open up premises to new businesses and allow redundant buildings to be brought back into use the Government are consulting on a proposal to allow temporary uses of certain existing buildings (retail and other A classes, offices (B1) and non residential institutions and assembly and leisure uses (D1 and D2)). This would be for certain specified new uses for a period of 2 years. To prevent inappropriate temporary use, it is proposed that a local authority notification requirement would provide an opportunity to validate uses and allow subsequent monitoring of the temporary uses.

3.31 At the end of the temporary use period, the planning permission for the use of the building would revert to its initial use unless a planning application was submitted and approved. Uses that might be appropriate temporary uses are likely to be within use classes A1, A2, A3 and B1.

3.32 **Question 6**

Do you think there should be permitted development rights to allow for the temporary use of buildings currently within the A, B1 and D1 and D2 use classes for a range of other specified uses for two years?

3.33 **Answer 6**

This approach is generally supported; however it would create a new approach within the planning system in respect of the principle of development being established in advance of any grant of planning permission. Whilst it is noted that the use would revert to the initial use at the end of the period, the absence of a planning permission

could result in protracted and awkward enforcement proceedings where a development has been demonstrated to be unacceptable in planning terms.

3.34 Question 7

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

3.35 Answer 7

A, B1 and D1 and D2 only. Anything more would be likely to result in harm to development plans and urban vitality and vibrancy.

3.36 Hotels to Houses

3.37 It has been suggested that there are premises in the C1 use class that no longer provide viable holiday or hotel accommodation. This may be for a range of reasons from changing trends in holidays to the desire for accommodation which has a more contemporary offer for its guests. Often such properties will be found in urban areas with existing good transport, health and school infrastructure. In some traditional holiday areas there are already strategies in place to enable change of use and in doing so creating new residential neighbourhoods. Allowing the conversion of hotels to residential use could trigger activity offering new opportunities to the house building industry and offering skilled developers and families the opportunity to enhance their neighbourhoods.

3.38 There is recognition that the type of buildings suitable for change of use and residential conversion without the need for any additional development, that would require planning permission, are likely to be the smaller premises. However, this proposal would encourage local authorities to think more creatively about the hotel stock in their area and plan accordingly for where they want to see growth or contraction happen. Where there is need for local control to safeguard holiday accommodation in main holiday and business areas, article 4 directions could be applied to remove the permitted development rights.

3.39 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?

3.40 Answer 8

No. To suggest that a hotel or similar accommodation would be a realistic alternative to a conventional dwelling house or flat is misguided. Such uses tend to be purpose designed and without a full range of ancillary services. Some are located in unsustainable locations, rural areas and on the coast. This would create high density living from which lessons have been learnt previously and need not be revisited. Such proposal may have individual merits and they should be considered in the conventional way by way of consideration of an application.

3.41 Question 9

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

3.42 Answer 9

No a threshold approach will not negate the potential arising harm for this proposal.

3.43 Question 10

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

3.44 Answer 10

No, prior approval would not negate the potential arising harm for this proposal.

3.45 **Updating Definitions Within the Use Classes Order**

3.46 The Use Classes Order groups uses with similar planning impacts into classes. Over time these have been amended. However, the Government is aware that local planning authorities are best placed to advise of the deficiencies in the existing definitions and new uses.

3.47 **Question 11**

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

3.48 **Answer 11**

No.

4. **FINANCIAL IMPLICATIONS [PE]**

4.1 Should this consultation paper be approved, the changes may result in a loss of planning fees, which at this moment cannot be quantified, but as LPA our primary concern is in controlling the use of land not generating fees.

5. **LEGAL IMPLICATIONS [EP]**

There are no legal implications arising from this report and any legal matters of note are contained within the body of the report.

6. **CORPORATE PLAN IMPLICATIONS**

6.1 None.

7. **CONSULTATION**

7.1 None. This is a consultation by DCLG.

8. **RISK IMPLICATIONS**

8.1 None.

9. **KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

9.1 The issues arising through this consultation are legislative provisions relating to the Town and Country Planning Act 1990 (as amended) and would apply on a national basis. Therefore any arising impacts will be applicable to all and no definitive impacts upon equality and rural matters will apply.

10. **CORPORATE IMPLICATIONS**

10.1 None.

Background papers: New Opportunities for Sustainable Development and growth through the reuse of existing buildings – CONSULTATION.

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