Response form

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

We are seeking your views to the following questions on the proposals to support sustainable development and growth through encouraging the reuse of empty and redundant existing buildings where the original use was no longer required or appropriate.

How to respond:

The closing date for responses is 11 September 2012.

This response form is saved separately on the DCLG website.

Responses should be sent preferably by email:

Email responses to: Deregulate.planning@communities.gsi.gov.uk

Written responses to:

Saima Williams
Consultation Team (Wider change of use)
Planning Development Management Division
Department for Communities and Local Government
1/J3, Eland House
Bressenden Place
London SW1E 5DU
About you

i) Your details:

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<thead>
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<th>Name:</th>
<th>Juliet Seymour</th>
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<tr>
<td>Position:</td>
<td>Head of Planning Policy</td>
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<tr>
<td>Name of organisation (if applicable):</td>
<td>London Borough of Southwark</td>
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| Address:                | Chief Executive's Department  
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                          PO Box 64529, London SE1P 5LX |
| Email:                  | Juliet.seymour@southwark.gov.uk |
| Telephone number:       | 0207 525 5471           |

ii) Are the views expressed on this consultation an official response from the organisation you represent or your own personal views?

- Organisational response [x]  
- Personal views [ ]

iii) Please tick the box which best describes you or your organisation:

- District Council [ ]  
- Metropolitan district council [ ]  
- London borough council [x]  
- Unitary authority/county council/county borough council [ ]  
- Parish council [ ]  
- Community council [ ]  
- Non-Departmental Public Body (NDPB) [ ]  
- Planner [ ]  
- Professional trade association [ ]
Land owner
Private developer/house builder
Developer association
Voluntary sector/charity
Other

(please comment):

iv) What is your main area of expertise or interest in this work (please tick one box)?

Chief Executive
Planner
Developer
Surveyor
Member of professional or trade association
Councillor
Planning policy/implementation
Environmental protection
Other

(please comment):

Would you be happy for us to contact you again in relation to this questionnaire?

Yes ☒ No ☐
ii) Questions

Please refer to the relevant parts of the consultation document for narrative relating to each question.

**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)

Yes ☐ No ☑

Comments

N/A The first proposal is not relevant to Southwark as an inner London borough.

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

Yes ☐ No ☑

Comments

N/A

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

Yes ☐ No ☑

Comments

N/A

**Question 4:** Do you agree that the size thresholds for change of use should be increased?

Yes ☐ No ☑

Comments
The proposed increase in the permitted development size threshold is relatively small and we do not raise strong concerns with the proposal. However we have not seen any evidence it would be of benefit in Southwark given our supportive planning framework for B class uses. Our adopted planning policies already allow a change of use from industrial and warehousing use (B2 and B8) to alternative uses including B1 use outside of our Preferred Industrial Locations (PILs), and therefore the proposal would not necessarily significantly facilitate the flexible use of commercial accommodation.

Furthermore, in the context of the designation of PILs in order to accommodate the demand and supply of land for general industrial, storage and distribution uses, it would not be appropriate to allow significant amounts of office space in PILs. PILs have been safeguarded to ensure that a range of industrial and storage functions can continue in the borough and also to maximise the diversity of the local economy. They have been designated due to their scale and relatively homogenous character, being able to accommodate activities which elsewhere might raise tensions with other land uses.

Southwark’s PILs are also of strategic importance in providing land and accommodation for businesses which play an important role in supporting the functions of the Central London fringe market. This market is dominated by businesses servicing the West End and City / Docklands office and retail economies. Typically demand in this area is driven by companies which must be in close proximity to their customers, including, for example: food and drink preparation for central retail and café outlets; printers and publishers; couriers and express delivery operators, and other providers of time critical ‘services’. The GLA commissioned study ‘Industrial Land Demand and Release Benchmarks Study’ by Roger Tym and Partners (2011), states that competition for land in these areas is generally intense, and over time industrial users have been squeezed out by other uses, notably other business users, residential and retail.

Our existing planning policies provide a very supportive framework for B class use and there is no evidence that they are hindering business growth. The current threshold of 235 sqm is long established and represents a proportionate and justifiable threshold which allows relatively small scale changes of use to be made within the commercial floorspace stock without the cost and potential delays of seeking planning permission. We consider it is more appropriate to put planning policies in place to regulate larger changes, rather than allowing through Permitted Development.

Question 5: If so, is 470m$^2$ the correct threshold, or should the increase in the limit be larger or more modest?

Yes ☐ No ☒

Comments

See comments above

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?

Yes ☐ No ☒

Comments
We do not support this proposal. The proposal is too blunt an instrument. While the stated objective is to allow vacant or redundant buildings to be brought back into use, the proposal does not distinguish between redundant buildings and those currently occupied by thriving businesses and other activities. Such businesses could be threatened by the proposal if owners sought to maximise their financial return through the replacement of established occupiers rather than filling vacant premises with new uses.

Furthermore, for the proposal to be effective a two year temporary permitted development right would need to be very clearly defined in terms of those uses which are “low impact” ones; however, defining a range of uses which would be acceptable in all circumstances might prove to be difficult. The temporary uses suggested are A1, A2 and A3 and B1. A3 use can give rise to significant amenity impacts and in the case of A2 uses the proposal would enable the creation of further betting shops, which we know are already becoming quite concentrated in some of Southwark’s shopping areas to the extent that they are undermining the mix of uses existing. Different uses have such varying impacts that may require robust assessments, which would not be provided under this proposal.

The proposal could have wide ranging and unintended adverse consequences as it may compromise existing planning policies which seek to balance the mix and spatial pattern of uses in town centres. Existing policy protection for existing uses such as shops (A1) in our protected shopping frontages (i.e. the proportion of units in A1 use must not fall below 50%) would be undermined by this proposal. The continued viability and vitality of these shopping areas is important as they provide local services people expect within easy distance of their homes, reducing the need to travel.

We are concerned that the proposal would increase the likelihood of potentially problematic or noisy uses being introduced in situations where there is residential accommodation above or adjoining the premises. We would lose the opportunity to require adequate installations which would mitigate against any potential adverse impacts i.e. noise, increase in traffic, odour etc. Operators may not wish to invest in these measures due to the temporary nature of the use. Also, there might be little or no control over hours of operation unless this could be regulated through licensing, which may not always be an available option.

It may also prove difficult in terms of local authority administrative resources to monitor the enforcement of the expiry of the two year temporary period.

It is more appropriate to use planning policies to ensure that impacts are adequately addressed, rather than allowing temporary use of buildings through Permitted Development. Furthermore, the NPPF requires that land or buildings which are redundant and where there is no reasonable prospect of it being used for that use, should be used for alternatives uses for which there is greater need. This principle is reflected in the London Plan and Southwark’s Core Strategy.

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

Comments

We do not consider that the proposal represents an appropriate measure to ensure good planning of our communities. Notwithstanding this position, if the proposal is to be introduced, a threshold to allow the temporary change of use permitted development rights to vacant properties only. It could only apply to properties that have been vacant for a period of at least a year with evidence of unsuccessfully marketing for the existing use.

**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?**
There is no obvious benefit of this proposal to Southwark and it may lead to sub-standard accommodation. Our existing planning policies already allow a change of use from C1 (hotels, boarding and guest houses) to C3 (residential) in principle, provided that other planning policy requirements are met such as housing, transport and environmental policies.

The proposal is not such a concern where the change of use involves a former dwelling house used as a hotel, back into a dwelling house. However it is problematic for larger purpose built hotels. The proposal would result in no planning control over the quality of the accommodation such as dwelling mix, minimum dwelling space standards, the provision of wheelchair units etc.

Our Core Strategy has identified a minimum number of affordable homes to be delivered over the plan period. This reflects an assessment of the economic viability of land for housing and the findings of housing need. The proposal would remove the affordable housing obligation, which raises concern on how local authorities will be able to properly plan their housing land supply and to ensure their affordable homes targets are delivered within the plan period. The proposal would also remove the opportunity to secure s106 planning obligations on the larger schemes to mitigate a development’s impact on the surrounding area. There is also the risk that the control over the environmental quality and sustainability of homes, which is fully assessed at the planning application stage, would be lost. For example, noise assessments would not be required, to establish the extent of road traffic, rail traffic and industrial/commercial operational noise impacts on the development. There are also conditional requirements for additional internal and external sound insulation treatment between commercial elements and residential elements through the current application process. The opportunity to secure these standards through pre-assessment and testing before occupation would be lost and may not adequately addressed through building regulation requirements.

Also current policy requirements for an adequate quantum of private and communal amenity space, aspect, adequate natural light and ventilation, waste and recycling stores would not be required to be met.

Assessment of the impact of residential development on transport matters is also a key part of the determination of planning applications. The preparation of a transport assessment (TA) plays a key role both in identifying impacts as well as setting out measures to overcome those impacts. Without the submission of a TA it will be difficult to demonstrate that the development will not have a negative impact on safety, cause increased congestion and CO2 emissions or result in overspill parking on surrounding streets.

It is also important to recognise that Policy 4.5 of the London Plan makes clear the intention to increase hotel accommodation in London - in appropriate locations - to support London’s visitor economy and stimulate growth. Therefore, whilst there may be excess hotel capacity in certain parts of the country, that is not the case in London and creating a permitted change to C3 would undermine this important source of economic growth for the city.

Therefore, allowing permitted development rights would not guarantee that future permanent residents would have an adequate standard of accommodation, nor would it address other potential impacts on the surrounding area as a result of a change of use. As in the case of B class floorspace, it is more appropriate to put planning policies in place to regulate changes to the existing hotel accommodation and also to deliver more housing, rather than allowing through permitted development.

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

Yes ☐  No ☑
We do not consider that the proposal represents an appropriate measure to ensure good planning of our communities. Given that change of use from hotels to residential may be unacceptable in some locations due to conflict with Policy 4.5 of the London Plan, and in all locations will require adequate opportunity to assess the resultant quality of residential accommodation and to impose conditions/secure planning obligations, a prior approval process is not considered to be an appropriate means to regulate such changes. We also do not consider that such changes would be acceptable below certain thresholds, as issues around the quality of accommodation have to be considered on small conversions also - indeed in some cases it could be the small conversions that would lead to the more unsuitable residential accommodation that results.

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

Yes ☐ No ☒

Comments

Prior notification arrangements already operate for categories of development such as phone masts and certain demolition works. Experience has shown that the general public have difficulty in understanding this procedure, particularly on what they can and can’t comment on.

The suggestion that a prior approval process could be used to validate the temporary uses sought is a recognition that permitting such uses unfettered would be unacceptable and could lead to significant harm. However, for a prior approval process to prevent such harm there would need to be appropriate controls over such matters as hours of use, servicing and so forth. This leads back to our conclusion that the most efficient way to accommodate such uses is through planning policy and a facilitative approach in determining applications through Development Management.

We consider that the prior notification requirement represents an added layer of administrative and technical procedure which would offer few cost savings for the local authority compared with the cost of processing a full application – indeed both prior notification and an application might be necessary. We believe a prior approval process which in all but name resembles a planning application process would be very difficult for local people to understand.

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

Yes ☒ No ☐

Comments

We have set out suggestions below

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

Comments
In our response to the Government’s issues paper (July 2011) we raised concern in relation to the retail (A class) uses, particularly the issue of the proliferation of betting shops on our high streets, which are in the same use class as banks or building societies i.e. A2 (Financial Services). Betting shops are appearing in disproportionate numbers in certain communities, undermining the vitality and mix of uses available in shopping frontages. Betting shops and payday loan shops should be reclassified as sui generis uses which would put them into a class of their own and require planning permission. This would enable local authorities to assess whether there is already an overconcentration of this use in certain areas. Many betting shops also have betting and gambling machines in store which make many of these shops more akin to amusement centres rather than being comparable to other types of A2 use.

The Mary Portas Review on High Streets included a recommendation to put betting shops into a separate use class of their own. The government’s response to this recommendation was that the planning system provides a tool (Article 4 directions) to help local authorities and communities control certain uses, such as betting shops, by removing permitted development rights, and requiring a planning application to be made. However, we do not favour an increased dependency on Article 4 directions because they potentially would place further burden and expense on local authorities. It would mean that areas would need to be assessed and then potentially excluded from allowing permitted development involving more staff resources and funding. Local authorities would also run the risk of paying compensation. In the case of betting shops, an Article 4 direction would not be able to restrict changes within the use class; so a bank, building society, estate agent, employment agency, solicitors or other professional or financial service would be able to change within the same use class to a betting shop and there is no scope for an Article 4 direction to control this.

The betting shop issue is not just a planning concern but also licensing. Local authorities might be able to exercise greater control on the location of betting shops if gambling legislation were to be reviewed. The Rt. Hon. Harriet Harman QC MP published a report on the Problem of Betting Shops Blighting High Streets and Communities in Low-Income Areas in 2011. The report highlighted that a snapshot of local authority areas has shown that an unintended consequence of the Gambling Act 2005 has been a dramatic proliferation of betting shops in deprived areas and a clear clustering of these shops in high street locations in these areas. This proliferation is driven by bookmakers’ desire for more of the very profitable B2 gaming machines which represent 40% of their profits. In order to get round limits on the number of machines per shop, currently set at four, bookmakers are simply opening multiple shops in close proximity.

In general we have a few further comments on amending parts of the A use class.

- There may be a need to reassess the extent of permitted change within and between A class uses; for example to make it less straightforward to convert longstanding community pubs (A4) to A1/A2 or A3. There are also some considerable grey areas in the Use Classes Order around A4 uses (drinking establishments) and late night entertainment uses (sui generis). We would welcome some clarification in the definitions which would enable clearer distinctions to be made between cafés, café-bars, A4 drinking establishments and night clubs. The definition of what constitutes a night club, as opposed to a late night drinking establishment with ancillary entertainment, would assist in the implementation of the evening economy planning policies and enable more effective enforcement of planning and licensing control.
- The classification of a launderette as sui generis use could be reconsidered, and reclassification in the A1 category. The use is similar in impact to a dry cleaner which is A1 and both uses are considered appropriate supporting services in local shopping parades.
- Funeral directors and undertakers have very little in common with other types of retail service and could be considered for reclassification as A2 (professional service) or sui generis.

**Question: Impact Assessment**

Do you have any comments on the assumptions and analysis set out in the consultation stage Impact Assessment? (See Annex 1)
See also the further specific questions within that Impact Assessment

Yes ☐ No ☐

Comments

The impact of the various proposals on local authorities are described only in terms of the potential loss of fee income and the direct costs around the planning application process itself.

We acknowledge that any wider costs and benefits for LPAs are difficult to quantify but extending PD rights to a wider range of development would have identifiable impacts on the effectiveness of planning policies which depend on planning controls which would no longer be available.

Thank you for your comments.