Communities and Local Government

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

Consultation

www.communities.gov.uk

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

Consultation

April 2011
Department for Communities and Local Government

Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000
Website: www.communities.gov.uk

© Crown Copyright, 2011

Copyright in the typographical arrangement rests with the Crown.

This publication, excluding logos, may be reproduced free of charge in any format or medium for research, private study or for internal circulation within an organisation. This is subject to it being reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the publication specified.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit http://www.nationalarchives.gov.uk/doc/open-government-licence/ or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk.

If you require this publication in an alternative format please email alternativeformats@communities.gsi.gov.uk

DCLG Publications
Tel: 030 0123 1124
Fax: 030 0123 1125

Email: product@communities.gsi.gov.uk
Online via the website: www.communities.gov.uk

April 2011

ISBN: 978 1 4098 2921 8

Contents

Introduction	2
Summary	3
Background	5
Proposals for change	7
Summary of the consultation questions	19
About this consultation	22
Invitation to comment	24
The seven consultation criteria and this consultation	27
Annex A: Impact Assessment	29

Introduction

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. Our reforms will ensure that the planning system incentivises growth from the bottom up, is less bureaucratic and is more responsive to the changing demands of society and businesses.

2. We want to create a planning system which responds more effectively to market signals, where decisions are taken at the right level and where communities receive the economic benefits of wider growth.

3. The Use Classes Order is a deregulatory device which allows change of use between land uses that have similar impacts, without applying for planning permission. The Government wishes to review the scope for extending the freedoms available through this route, while ensuring that planning and land use impacts are properly taken into account. To this end, the Government is proposing action on three fronts:

   - To provide for the change from commercial (B use classes) to residential (C3 use class) without the need to apply for planning permission. This responds to the recognised and urgent need to increase housing supply at a national level and recognises the fact that, in general, housing is likely to have fewer wider land-use impacts than commercial uses. Proposals are set out in this consultation document.

   - A call to local communities and local authorities to use imaginatively the powers they already have to relax planning constraints locally to target local issues, encourage development, support local economic strategies and make best use of existing properties.

   - To remove unnecessary barriers to change of use through a wider review of how change of use and permitted development is managed within the planning system. This will include consideration of how the system could be liberalised in ways other than to promote housing supply.

4. A key barrier to increasing housing supply is the lack of land available for residential development. The changes proposed in this consultation document offer an opportunity to contribute to reducing that shortage by recognising the scope for allowing as permitted development the change of use from commercial to residential. The proposals will also promote regeneration of commercial land, and help bring empty commercial buildings back into productive use.

Summary

Scope of the consultation

Topic of this consultation:	Relaxation of planning rules for change of use from commercial (B use classes) to residential (C3 use class).
Scope of this consultation:	The consultation seeks views on the Government's proposals to amend the Town and Country Planning (General Permitted Development) Order 1995 (as amended) to grant permitted development rights to changes of use from commercial to residential use i.e. to allow such changes of use without the need for planning applications.
Geographical scope:	These proposals relate to England only.
Impact Assessment:	A consultation stage impact assessment is attached to this consultation document.

Basic information

To:	This is a public consultation and it is open to anyone to respond. We would particularly welcome views from: • local planning authorities • housing developers • business • community representatives.
Body/bodies responsible for the consultation:	Department for Communities and Local Government (Planning Development Management Division)
Duration:	The consultation is published on 8 April 2011 and ends on 30 June 2011. This is a 12-week period.

Enquiries:	Theresa Donohue Tel. 0303 44 41719 e-mail: theresa.donohue@communities.gsi.gov.uk
How to respond:	By e-mail to C3consultation@communities.gsi.gov.uk. A downloadable questionnaire form, which can be emailed to us, will be available on our website at: www.communities.gov.uk/consultations. Alternatively, paper communications should be sent to: Theresa Donohue Consultation Team (Commercial to residential use) Planning Development Management Division Department for Communities and Local Government 1/J3, Eland House Bressenden Place London SW1E 5DU
Additional ways to become involved:	This is a written exercise.
After the consultation:	A summary of responses will be published.
Compliance with the Code of Practice on Consultation:	The consultation complies with the Code.

Background

Getting to this stage:	The current framework for change of use in planning is contained in the Town and Country Planning (Use Classes) Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) Order 1995 (as amended).
Previous engagement:	

Background

Policy background

5. There is an urgent need to increase the rate of house-building in England and make housing supply more responsive to changes in demand. For decades, house-building in England has failed to keep up with the needs and aspirations of our growing population. The current rate of house-building is at a record low, with net additions standing at just 129,000 in 2009-10 under the last administration. Meanwhile the number of households in England is projected to grow by 232,000 per year.

6. In part this is due to wider market conditions and the economic downturn, but the Government believes that one of the key barriers to increasing housing supply is the lack of land and buildings available for residential development and conversion. For example, a recent Planning Inspectorate study found that only 61 per cent of local planning authorities had a verified land supply allocation in their local plan, and local authority reported figures suggest that, where a land supply is in place, it is often not targeted at areas of greatest demand.

7. The Government has already taken action to help increase availability of land and housing supply. This includes the New Homes Bonus and measures in the Localism Bill including Neighbourhood Plans, the Community Right to Build and the Community Right to Buy. We have also asked the Homes and Communities Agency to examine how the disposal of publicly owned land can be used for housing. In addition, ministers have announced a full review of national planning policy by 2012 and a commitment to reduce regulations on house-builders, including the introduction of a local standards framework. However, we recognise the continuing need to simplify the planning system and make it easier for sustainable development to happen.

Legal background

8. 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.

9. 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).

10. 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.

There are subsets within each class. In addition there are also uses that are sui generis i.e. in a class of their own.

11. 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.

Proposals for change

12. We want to encourage economic growth by encouraging developers to bring redundant commercial premises back into use and at the same time help tackle the need for more housing. 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. Removing the burden and costs associated with such applications and establishing the principle that change of use between these classes is permitted should encourage developers to bring forward more proposals for housing.

13. However, our aim is to provide the broadest scope for this freedom that we reasonably can and we believe:

    - 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 an opportunity to build on the current situation whereby it is possible to convert unused space above a shop into a flat.

    We are therefore also seeking views on these wider proposals.

14. Each of these proposals relates 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.

15. We believe there is a strong case for this broad change to be made throughout England at the national level. Additionally, in line with our commitment to encourage local people to drive the shape and nature of development in their area, communities will be able to go further. Local authorities can grant permitted development rights through local development orders and, subject to successful passage of the Localism Bill, neighbourhood development orders. These will allow permitted development rights to be tailored to local circumstances and allow freedoms to be used sensibly to encourage local growth.

16. We propose that the impact of these proposals, if implemented, would be reviewed after three years.

Policy context

17. The clearest evidence of the relative undersupply of land for housing compared to the supply of land for other uses is in their respective land values. The value of land in different uses reflects the underlying demand for the property type built on it relative to the supply of land for that type of use. In most cases housing land has a significantly greater value than that for commercial uses.

18. The price differential has grown over time in a way which should not happen if the market, or the local plan, is responding to these signals by providing more land for those uses, such as housing, that are relatively more valuable. The planning system, and in particular controls over change of use, is likely to be a significant part of the reason for this. If there was more freedom to change between uses, this would better enable the market to adjust over time, to provide more land for housing and thereby reduce its value.

19. Land Use Statistics show that in 2005, 10 per cent of England was developed; domestic buildings covered just 1.1 per cent; and commercial offices 0.1 per cent. Recent Land Use Change Statistics show the reliance on existing residential sites for the provision of new dwellings. Nationally, between 2006 and 2009, 37 per cent of land developed for housing was previously residential. In London and the South East the proportion was around 50 per cent. In 2009, compared with 27 per cent of new dwellings being built on land that was previously residential, just 2.8 per cent of new dwellings were built on land previously used as offices and 3.6 per cent on land previously used for storage and warehousing. In total, change of use of existing buildings accounts for 10 per cent of total housing supply, raising the question of whether this can be increased further.

20. Vacancy rates also offer evidence that at any particular time there can be a mismatch in the supply of land for different uses relative to demand for those uses. For example, between 1998 and 2005 the average vacancy rate in the commercial sector in England was between 7 per cent and 9 per cent while the equivalent figure for the housing sector was around 3 per cent; one of the lowest in the European Union. Many towns will have parts where there are office blocks or business parks lying empty, and becoming dilapidated, while not enough homes are being built to meet demand.

21. The property market will always need a certain level of vacancies in each sector reflecting natural churn and opportunities for refurbishment and redevelopment. We estimate that a vacancy rate of around 5 per cent would achieve this. The higher vacancy rates in the commercial sector suggest that some shift of use from commercial to housing can be accommodated with only a very limited impact in terms of increasing commercial rents.

Benefits from our proposals

22. The planning system, including the Use Classes Order, plays an important role in ensuring that development which comes forward is delivered in suitable locations, in a manner that benefits local communities and that any adverse impacts, including the loss of a diversity of uses within a local area, are successfully mitigated. The system also offers people affected by a development proposal, and others with an interest, the opportunity to register any concerns and generally participate in the development process through the public consultation that accompanies planning applications. Our proposals for neighbourhood planning, in the Localism Bill, will strengthen the scope for communities to influence development in their areas. We believe this is important as communities that help design and have a stake in how growth is delivered are more likely to support individual developments when they come forward.

23. Alongside this, however, it is the Government's aim to ensure that all unnecessary regulation is minimised and that good quality proposals are not delayed by the planning system. We believe that greater freedoms will also encourage the more efficient use of land and buildings through enabling more direct responses to clear price signals.

24. We believe that a relaxation in the rules governing change of use from commercial to residential will encourage developers to bring forward more housing proposals and make better use of buildings that are no longer needed and/or unsuitable for their original purpose. We consider that a change in permitted development rights at the national level is appropriate to allow this process to happen.

25. We consider that B1 uses are most likely to be located in suitable locations for housing and that in many cases existing premises will lend themselves to conversion to housing without the need for extensive external works. We consider that the principle that underpins the approach to change of use permitted development - that the impact on others arising from a change in how the land is used is likely to be similar or less than the impacts arising from the existing use – will apply in respect of the change from B1 to residential use in many cases.

26. However we also consider that in many cases there would be a strong argument for also allowing change of use from B2 (general industrial) and B8 (storage and distribution) uses to residential uses without the need for planning applications.

27. Buildings and land within these use classes vary widely in terms of their location and characteristics. There will be some instances where such land may not be suited to residential development, either because of the nature of surrounding uses, the lack of necessary infrastructure to support development or because of the characteristics of the land

itself. However there will also be many cases where there are no greater barriers to allowing change of use from B2 and B8 uses to residential than to allowing change of use from B1 uses to residential, for example in the case of vacant edge of town business park sites.

28. We believe that in general, the market will make sensible decisions about where land classified as B2 and B8 is and is not suitable for residential development – homes in unsuitable locations will clearly be much harder to sell. We also believe that it may be possible to frame the proposal in a way which mitigates many of the adverse impacts which could arise from any particular development. It is also worth noting that in the majority of cases, even if no application is required for a change of use from B2 or B8 to residential use, it is more than likely that operational planning permission would still be required for external work to or construction of the buildings themselves.

29. Our estimates suggest that including these use classes in permitted development rights could double the number of dwellings available from B classes change of use developments to around 14,000 per year.

30. Given that some changes of use may take place as a result of these proposals which prove not to be successful in market terms, we think it is important to allow land to revert to its original B use class as long as it does so within five years of having changed as a result of this policy.

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? Please give your reasons.

Question B

Do you support the principle of granting permitted development rights to change use from B2 (general industrial) and B8 (storage and distribution) to C3 (dwelling houses) subject to effective measures being put in place to mitigate the risk of homes being built in unsuitable locations? Please give your reasons.

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?

Other matters for consideration

31. The aim of our proposals is to create the opportunity to bring vacant and underused properties back into economic use and at the same time to contribute to delivering more homes. As well as the proposals outlined above we are aware that in many town centres there is unused space above shops and other town centre uses which could lend itself to conversion to residential.

32. There has been work to help landlords recognise the opportunity for better use of their properties and this was supported by permitted development rights which allow change of use from A1 (shops) and A2 (financial and professional services) to mixed use of A1 or A2 plus a single flat respectively. However, in many cases, we believe there may be the potential for greater residential use. It would be possible to extend the current permitted development rights to allow for a mixed use incorporating more than one flat.

33. While there may be instances where it is not suitable to have residential use above shops (e.g. due to amenity issues relating to noise), as in other areas the market is able to determine this. To facilitate this we believe there is merit in extending existing permitted development rights to allow conversion of such space to mixed use, to incorporate more than one flat. This is on the basis that, in general, the impacts arising from the extension of these permitted development rights would be similar to those set out below in relation to B1 uses.

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? If so should there be an upper limit?

Issues arising from these proposals

34. The Government considers that the urgent need for greater housing supply nationally is sufficiently important to justify the extension of permitted development rights in England. However, it is keen to ensure that it has fully understood the potential impacts and unintended consequences of the proposals and taken account of them.

35. We recognise the value of the planning system is that it allows the consideration of a range of issues and material considerations through the planning application process. Where permitted development is granted without any conditions this process could be lost. However, the Government believes that it is possible to frame a permitted development right which will provide sufficient safeguards against undue undesirable impacts.

36. In the following section we have identified the possible adverse impacts of these proposals. We then go on to identify a range of possible mitigation measures. The degree to which any of these measures is applied in our final proposal will be informed by the consultation responses and based on the Government's assessment of the extent of any possible land use impacts.

Impact on amenity, services and housing mix

37. In many cases, we believe that these proposals could make a significant contribution to the amenity of an area through regenerating sites which will otherwise remain vacant or even become derelict and through providing additional housing for the community.

38. However, there may be circumstances where communities are concerned about the potential for the loss of important local commercial premises or, more likely, that new communities are concerned about the lack of local services such as doctors' surgeries or schools. Local authorities will also have policies in their local plans in relation to the housing mix that they wish to see delivered in their area.

39. These issues are normally addressed during consideration of the planning application with local authorities using planning obligations as a means of delivering affordable housing and other planning gain outcomes for the neighbourhood. Our proposals would mean that consideration of these issues would not take place through the planning system. However it could occur through other action by the local authority or the developer on a voluntary basis following discussion with the neighbourhood. Developers would obviously have an incentive to do so if it would ensure that their development was more attractive to buyers. But there would be no obligation on them to provide for these additional outcomes in bringing forward a scheme.

Loss of commercial land and property and the impact on areas with high residential values

40. Evidence on vacancy rates, although imperfect, points to a clear oversupply of commercial land in certain areas, compared to demand for it and in comparison with land available for housing. In the vast majority of cases we believe this should act to mitigate against any upward pressure on commercial rents as a result of this policy.

41. However, there may be a small number of localised instances where vacancy rates in commercial property are particularly low. In these cases there is the possibility that the policy might have an effect on the level of commercial rents but we believe this would still be minor.

42. In some areas there may be high demand for both commercial property and residential property but the market will attach a higher value to the residential use and this could act as an incentive to owners to consider change of use of economically viable and prosperous commercial uses to residential use. To the extent that this results in a more efficient use of land, with price signals indicating relative scarcity, this represents an efficient outcome. However the Government recognises that such an impact may, on occasion, have risks regarding, for example, housing mix.

43. Rural areas like urban ones require additional housing development. If this policy leads to greater housing development taking place on existing sites of development there should be less pressure on greenfield sites. It will also provide the opportunity for areas to benefit from a larger residential population which could, for example, help to support local shops and community organisations. However, the Government recognises that the loss of commercial uses in villages and the conversion of commercial buildings on farms to residential may cause some concerns for local residents.

Transport and parking

44. New housing development can have implications for local parking provision, car access arrangements, traffic impacts and public transport services. These may be greater or less than those for commercial use – a large office block not accessible by public transport, for example, may have a need for more parking than a lower density residential block.

45. Currently housing developers may be required to complete a travel statement or assessment where the size of the development is greater than 50 dwellings. The development may be located in a controlled parking zone or in an area poorly served by road. Where this is the case a local authority may place conditions on the development, such as imposing a ‘car-free’ condition, a limit on the car parking spaces, or a requirement to improve the access road. Removing the requirement

to submit planning applications would, unless an appropriate mitigation measure was implemented, remove any obligation to prepare these documents and remove the opportunity for the local authority to ensure the developer addressed any transport issues the change of use brought.

Noise

46. The noise generated by residential units can have a different impact to that generated by commercial use. It may for instance create noise impacts during the evening and early morning when commercial premises are generally quiet. However, it may also, in many cases, result in lower noise levels, for instance if the previous use was light industrial. It is difficult to identify a specific pattern of noise impact which would emerge from these changes. However, if the impacts were higher than the previous use there may be other routes for dealing with problems that arise, such as through environmental health legislation.

Site location impacts

47. Some B class uses (particularly B2) may have characteristics that reduce their acceptability as housing sites. Examples of this could include the presence of contaminated land or hazardous substances, or a higher level of flood risk than would generally be acceptable for housing (commercial uses can accept a higher risk).

48. There is also a possibility that replacement of industrial development with housing could create 'bad neighbour' situations for adjoining activities, leading to a call for tighter environmental or operational controls to be placed on existing surrounding activities.

Question E

Do you agree that we have identified the full range of possible issues which might emerge as a result of these proposals? Are you aware of any further impacts that may need to be taken into account? Please give details.

Options to address possible impacts of the proposals

49. The Town and Country Planning (General Permitted Development) Order 1995 (as amended) already grants permitted development rights to a wide range of different forms of development ranging from small changes to homes to very large development on land owned by public utilities. Many of the specific parts of the Order are subject to conditions and prior approval regimes.

50. A further safeguard within the General Permitted Development Order, if there are significant planning impacts locally which otherwise would not be taken into account, is for a local planning authority to issue an article 4 direction. This can withdraw the permitted development right in respect of a specific development or in respect of a particular class of development in a defined area.

51. The Government considers that there will be scope for these tools to be applied in respect of these proposals and for this to minimise the likelihood of significant undesirable outcomes, identified as part of the consultation exercise, without undermining the purpose of the policy which is to allow more land to be used for the supply of housing. The tools could be used individually or in combination to address concerns identified. However, the objective is that any regime should be both clear and simple. Views are sought, in particular, on the four areas set out below.

Conditions and prior approval

52. One of the ways in which it would be possible to mitigate any adverse impacts would be to attach standard conditions to the permitted development right. Any such conditions could be:

- associated with a prior approval mechanism whereby the local authority assesses whether the condition has been met before the permitted development rights are granted; or
- based on self-certification i.e. the developer satisfies themselves that they have complied with the condition before taking advantage of the permitted development right.

53. For example, the possible transport impacts associated with residential developments over a certain size could be mitigated through the use of a condition to require the developer to prepare a travel plan. The travel plan could then be assessed by the local authority and would require prior approval before the permitted development right would be granted by the local planning authority.

54. This type of mitigation measure could be applied to other possible impacts, such as noise, so long as they were related to the planning merits of the application.

Thresholds and exclusions

55. The Government believes that these changes should be made nationally in England. However we are proposing that the following types of development should be excluded from the permitted development right because they raise issues requiring further consideration:

- listed buildings and scheduled monuments
- safety hazard zones
- development where an environmental impact assessment is required
- development on land affected by contamination.

56. It would also be possible for these changes to be restricted by a threshold above which the permitted development right did not apply. A threshold could, for example, be based on the number of dwellings being created or be set at the level where an Environmental Impact Assessment is required. A threshold could offer protection where there were concerns in a neighbourhood that larger buildings which accommodated companies that employ many local people might be adversely affected or lost by unchecked permitted change of use.

57. A size threshold could also be beneficial in areas where a local authority's local plans prioritised commercial use and there were concentrations of high value commercial areas which they did not want to lose to residential use. However a threshold would add complexity, limit the extent to which the housing supply objective was achieved and would run the risk of being subject to abuse.

Article 4 directions

58. The Government recognises that with any general provision there may be instances where a permitted development right granted nationally is not appropriate in a local area. In such cases local planning authorities can make an article 4 direction, to remove the permitted development right and require planning applications for such development.

59. Where local authorities choose to make an article 4 direction they may be liable to pay compensation where a planning application is refused or granted subject to conditions.

60. Section 189 of the Planning Act 2008 introduced provisions relating to compensation whereby if a permitted development right is withdrawn by way of an article 4 direction, compensation will be payable only if the application is made within 12 months of the direction coming into force (and subsequently refused or granted subject to restrictive conditions). It also provides that if a local planning authority gives at least 12 months' notice in advance of the withdrawal of the permitted development right, compensation will not be payable.

61. The intention behind these proposals is to provide an immediate boost to housing supply. Given the importance of this policy objective the Government is minded not to apply the provisions in section 189 of the Act to this permitted development. This would be conditional on ensuring that it was possible to design the permitted development right nationally in a manner that addressed any significant adverse impacts

on neighbourhoods highlighted in this consultation. However, the Government would be keen to hear if the use of article 4 directions in specific circumstances would help to address particular planning impacts.

Availability of commercial land

62. The analysis which underpins the proposals to allow change of use from B classes to C3 suggests that the policy would be unlikely to have a significant impact on the availability of commercial land or on commercial rents. The Government is strongly committed to increasing the amount of land available overall for development and has adopted a range of measures to help achieve this. The Government believes that the net effect of these wider reforms will be to increase the availability of commercial land rather than to reduce it.

63. Should there be very localised instances where there is a significant and unacceptable loss of commercial land, local authorities already have the ability to use local development orders to allow for other balancing changes in the local planning regime e.g. to allow for change of use from C to certain B use classes. We believe that a local approach to such decisions is the right way to proceed. However, the Government would welcome views on the principle of liberalisation on a national basis from C3 use (dwelling houses) to certain B use classes. If there is considered to be a need for such a change, the Government will consider this in greater detail in the forthcoming review of the Use Classes Order.

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?

Question G

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

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? Please give your reasons.

Question K

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

Summary of 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?

Please give your reasons.

Question B

Do you support the principle of granting permitted development rights to change use from B2 (general industrial) and B8 (storage and distribution) to C3 (dwelling houses) subject to effective measures being put in place to mitigate the risk of homes being built in unsuitable locations?

Please give your reasons.

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?

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?

If so should there be an upper limit?

Question E

Do you agree that we have identified the full range of possible issues which might emerge as a result of these proposals? Are you aware of any further impacts that may need to be taken into account?

Please give details.

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?

Question G

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

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?

Please give your reasons.

Question K

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

About this consultation

Impact assessment

The impact assessment is annexed to this consultation document. It is a consultation stage impact assessment, which analyses the costs and benefits of the policy option alongside the 'do nothing' baseline.

Questions about the impact assessment:

Question 1

Do you think that the impact assessment broadly captures the types and levels of costs and benefits associated with the policy options?

If not, why?

Question 2

Are there any significant costs and benefits that we've omitted? If so, please describe including the groups in society affected and your view on the extent of the impact.

Question 3

Are the key assumptions used in the analysis in the impact assessment realistic? If not, what do you think would be more appropriate and do you have any evidence to support your view?

Question 4

Are there any significant risks or unintended consequences we have not identified? If so please describe.

Question 5

Do you agree that the impact assessment reflects the main impacts that particular sectors and groups are likely to experience as a result of the policy options?

If not, why not?

Question 6

Do you think there are any groups disproportionately affected?

If so please give details.

Question 7

Do you think these proposals will have any impacts, either positive or negative, in relation to any of the following protected characteristics – Disability, Gender Reassignment, Pregnancy and Maternity, Race, Religion or belief, Sex, Sexual Orientation or Age?

Please explain what the impact is and provide details of any evidence of the impact.

Question 8

Do you have any information on the current level of planning applications for change of use from B to C3 in your local authority area which might be helpful in establishing a baseline against which to measure the impact of this policy?

Invitation to comment

This is a public consultation and it is open to anyone to respond to this consultation. However, we would particularly welcome responses from:

- local planning authorities
- house builders
- businesses
- community representatives

How to respond

The Government welcomes your views on all aspects of the proposals set out in this consultation.

A range of questions are set out in the consultation questionnaire which is downloadable from our website at:

www.communities.gov.uk/consultations.

We would value your opinion on as many or as few questions as you can answer.

The completed questionnaire should be emailed to the following address:

C3consultation@communities.gsi.gov.uk

Our preference is to receive responses electronically using the consultation questionnaire where possible. However, if you wish to post your response please send it to the Planning Development Management Division at the following address:

Theresa Donohue
Consultation Team (Commercial to residential use)
Planning Development Management Division
Department of Communities & Local Government
1/J3, Eland House
Bressenden Place
London SW1E 5DU

This consultation will run from 8 April 2011. **The deadline for submissions is 30 June 2011.**

Data protection

This is to inform you that we may, with your consent, quote from your response in a published summary of the response to this consultation. If you are content for your views to be made public in this way, please tick the box on the questionnaire.

Otherwise, your views may be set out in the response, but without attribution to you as an individual or to you as an organisation.

We shall treat the contact details you provide us with carefully and in accordance with the data protection principles in the Data Protection Act 1998. We shall not make them available to other organisations, apart from any contractor ("data processor") who may be appointed on our behalf to analyse the results of this questionnaire, or for any other purpose than the present survey without your prior consent. We shall inform you in advance if we need to alter this position for any reason.

What will happen to the responses?

The Department will take account of the responses received to this consultation before making decisions on possible changes to planning legislation.

Following the close of the consultation we will analyse the responses to the consultation and produce a summary of them which will be published on the Department's website.

Publication of responses - confidentiality and data protection

- Information provided in responses to this consultation, including personal information, may be published, or disclosed in accordance with the access to information regimes. (These are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

- If you want any of the information that you provide to be treated as confidential you should be aware that under the Freedom of Information Act, there is a statutory Code of Practice with which public authorities must comply, and which deals amongst other things with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential.

- If we receive a request for disclosure of information we will take

full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

- The Department will process your personal data in accordance with the Data Protection Act and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

The seven consultation criteria and this consultation

This consultation document and consultation process have been planned to adhere to the Code of Practice on Consultation issued by the Better Regulation Executive in the Department for Business, Innovation and Skills and is in line with the seven consultation criteria, which are:

1. Formal consultation should take place at a stage when there is scope to influence the policy outcome;

2. Consultations will last for 12 weeks;

3. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals;

4. Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach;

5. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained;

6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation;

7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of

confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

The Department for Communities and Local Government will process your personal data in accordance with the Data Protection Act and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please inform DCLG Consultation Co-ordinator.

The postal address is:
Zone 6/J10
Eland House
London SW1E 5 DU

The e-mail address is:

consultationcoordinator@communities.gsi.gov.uk

Annex A – Impact Assessment

Relaxation of planning rules for change of use from commercial to residential – Consultation

Contents

Summary: Intervention and options	30
Summary: Analysis and Evidence Policy option 2	32
Summary: Analysis and evidence Policy Option 3	34
Enforcement, implementation and wider impacts	36
Specific Impact Tests: Checklist	36
Evidence Base (for summary sheets) – Notes	38
Evidence base (for summary sheets)	40

Title: Relaxation of planning rules for change of use from commercial to residential	Impact Assessment (IA)
Lead department or agency: Department for Communities and Local Government	**IA No: DCLG 0028**
	Date: 08/03/2011
	Stage: Consultation
	Source of intervention: Domestic
Other departments or agencies:	**Type of measure:** Secondary legislation
	Contact for enquiries: Theresa Donohue **Tel:** 0303 4441719 **E-mail:** theresa.donohue@communities.gsi.gov.uk

Summary: Intervention and options

What is the problem under consideration? Why is government intervention necessary?

The Government is committed to increasing the rate of house-building, making housing supply more responsive to changes in demand. The current rate of house-building is at a record low, with net additions standing, under the last administration, at just 129,000 in 2009/10 while the number of households in England is projected to grow by 232,000 per year. In part this is due to wider market conditions, but the Government believes that aspects of the current land use planning system also play a part. In addition to a wider package of reforms to the system and the strong incentives provided by the New Homes Bonus, the Government believes that further action is needed. Therefore it is proposing to introduce new permitted development rights to allow changes from commercial use (B1, B2 and B8) to residential (C3) use without the need for planning applications.

What are the policy objectives and the intended effects?

The objective is to allow changes of use of a building or land from the B use classes to C3: dwelling houses to happen more easily. The intended effect of the proposal is to support an increase in housing supply, encourage brownfield development, promote regeneration of commercial land and bring empty properties into productive use.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option.

Option 1: Do nothing. The rules remain as they are and an application for planning permission is required for material changes of use from B1: Business to C3: Dwelling houses.

Option 2: Grant permitted development rights for changes of use from B1 to C3. A relaxation in change of use rules to allow change of use from B1: Business uses to C3: Dwelling houses to happen freely without the need for planning applications.

Option 3: Grant permitted development rights for changes of use from B1, B2 and B8 to C3. An extended relaxation in change of use rules to allow change of use from B1, B2 and B8 commercial uses to C3: Dwelling houses to happen freely without the need for planning applications.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** **What is the basis for this review?** PIR **If applicable, set sunset clause date** M/Y	
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

Sign-off for final proposal stage impact assessments:

I have read the impact assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible SELECT SIGNATORY:..... Date:8 March 2011

Summary: Analysis and evidence — Policy Option 2

Description: Liberalise Use Class Orders. A relaxation in change of use rules to allow transfer to housing C3 development from B1 (business) uses

Price Base Year	PV Base Year	Time Period	Net Benefit (Present Value (PV))		
2011	2011	Years 10	Low:	High:	Best Estimate:

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low				
High				
Best Estimate				

Description and scale of key monetised costs by 'main affected groups'

Other key non-monetised costs by 'main affected groups'
Possible that by encouraging greater change of use of a building or land from B1: business use class to C3: Dwelling houses use class that there could be less land/premises available for business use and so rents increase at the margin. It is hard to quantify this in advance, as it will be localised reflecting particular circumstances (such as vacancy rates) and depend on availability of land and building for business use and the demand for it.

Local authorities – possible loss of business rates; potential costs associated with investigating statutory nuisances; and if local authorities issue Article 4 directions, they will bear the costs.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low				
High				
Best Estimate			£16.3m	**£140.5m**

Description and scale of key monetised benefits by 'main affected groups'		
Benefit/Group	**Ave. Annual**	**Total (Net Present Value)**
Developers - administrative savings (baseline developers)	£14.7m	£127m
Developers - fee savings from no longer needing planning permission	£1.3m	£11.3m
Developers – reduced appeals	£0.1m	£0.6m
Total to Developers	**£16.1m**	**£139m**
Local planning authorities – administrative savings	£0.13m	£1.10m
Local planning authorities – reduced appeals	£0.03m	£0.24m
Planning Inspectorate - reduced appeals	£0.04m	£0.30m
Total	**£16.3m**	**£140.5m**

Other key non-monetised benefits by 'main affected groups'

Additional housing – key aim is to increase numbers of additional housing units to better reflect the demand for housing. This will result in benefits to consumers. It will also lead to further administrative savings to developers. By way of illustration (not included above) a 1 per cent shift in floor space from B1 to C3 would lead to additional savings of around £100m (Net Present Value).

Key assumptions/sensitivities/risks **Discount rate** 3.5%

A key risk is described above, that fewer sites available for business use may result in higher rents in this sector. There is also a risk around potential external impacts of change of use, which may be positive or negative. Also simplifying assumptions are made regarding data and categorising these by use classes.

Direct impact on business (Equivalent Annual) £m):			**In scope of One In One Out?**	**Measure qualifies as**
Costs:	**Benefits:** £16.1m	**Net:** £16.1m	Yes	OUT

Summary: Analysis and evidence — Policy Option 3

Description: Further liberalise Use Class Orders. A relaxation in change of use rules to allow transfer to housing C3 development from B1, B2 and B8 (commercial) uses

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: £244.3m

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low				
High				
Best Estimate				

Description and scale of key monetised costs by 'main affected groups'

Other key non-monetised costs by 'main affected groups'

Possible that by encouraging greater change of use of a building or land from B1, B2 and B8 use class to C3: Dwelling houses use class that there could be less land/premises available for commercial use and so rents increase at the margin. It is hard to quantify this in advance, as it will be localised reflecting particular circumstances (such as vacancy rates) and depend on availability of land and building for commercial use and the demand for it.

Local authorities – possible loss of business rates; potential costs associated with investigating statutory nuisances; and if local authorities issue Article 4 directions, they will bear the costs.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low				
High				
Best Estimate			£28.4.m	**£244.3m**

Description and scale of key monetised benefits by 'main affected groups'

Benefit/Group	Ave. Annual	Total (Net Present Value)
Developers - administrative savings (baseline developers)	£25.1m	£215.7m
Developers - fee savings from no longer needing planning permission	£2.8m	£23.9m
Developers – reduced appeals	£0.1m	£1.0m
Total to Developers	**£28.0m**	**£241m**
Local planning authorities – administrative savings	£0.28m	£2.4m
Local planning authorities – reduced appeals	£0.05m	£0.41m

Other key non-monetised benefits by 'main affected groups'

Additional housing – key aim is to increase numbers of additional housing units to better reflect the demand for housing. This will result in benefits to consumers. It will also lead to further administrative savings to developers. By way of illustration (not included above) a 1 per cent shift in floor space from B1, B2 and B8 to C3 would lead to additional savings of around £195m (Net Present Value).

Key assumptions/sensitivities/risks	**Discount rate**	3.5%
A key risk is described above, that fewer sites available for commercial use may result in higher rents in this sector. There is also a risk around potential external impacts of change of use, which may be positive or negative. Also simplifying assumptions are made regarding data and categorising these by use classes.		

Direct impact on business (Equivalent Annual) £m):			**In scope of One In One Out?**	**Measure qualifies as**
Costs:	**Benefits:** £28m	**Net:** £28m	Yes	OUT

Enforcement, implementation and wider impacts

What is the geographic coverage of the policy/option?			England		
From what date will the policy be implemented?					
Which organisation(s) will enforce the policy?			Local authorities and secretary of state		
What is the annual change in enforcement cost (£m)?					
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			No		
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:** n/a	**Non-traded:** n/a	
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			**Costs:**	**Benefits:**	
Distribution of annual cost (%) by organisation size	**Micro**	**< 20**	**Small**	**Medium**	**Large**
Are any of these organisations exempt?	Yes/No	Yes/No	Yes/No	Yes/No	Yes/No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on…?	**Impact**	**Page ref within IA**
Statutory equality duties[1] Statutory Equality Duties Impact Test guidance	No	51

Economic impacts		
Competition Competition Assessment Impact Test guidance	No	51
Small firms Small Firms Impact Test guidance	No	51

Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	51
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	51

Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	51
Human rights Human Rights Impact Test guidance	No	51
Justice system Justice Impact Test guidance	No	51
Rural proofing Rural Proofing Impact Test guidance	No	51

Sustainable development Sustainable Development Impact Test guidance	No	51

[1] Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment), and those of the matching IN or OUT measures.

No.	Legislation or publication
1	Benchmarking the costs to applicants of planning permissions (Arup, 2009) http://www.communities.gov.uk/documents/planningandbuilding/pdf/benchmarkingcostsapplication.pdf
2	DCLG Land Use Change Statistics: http://www.communities.gov.uk/documents/planningandbuilding/xls/1658106.xls
3	Barker Review of Land Use Planning: Interim report - analysis (2006) http://www.communities.gov.uk/documents/planningandbuilding/pdf/151105.pdf
4	Pre-Budget Forecast, June 2010. Office for Budget Responsibility. http://budgetresponsibility.independent.gov.uk/d/pre_budget_forecast_140610.pdf
5	Legislation.gov.uk http://www.opsi.gov.uk/si/si2008/draft/ukdsi_9780110809892_en_1
6	The Planning Inspectorate, Statistical Report: England, 2009/10. (Page 15.) http://www.planningportal.gov.uk/uploads/pins/statistics_eng/09_10/full_report.pdf
7	DCLG Planning Application Statistics : http://www.communities.gov.uk/documents/planningandbuilding/xls/1658106.xls
8	Table 3YE: Planning decisions by type of development, England, year ending March 2010. http://www.communities.gov.uk/documents/statistics/xls/1627454.xls

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y_0	Y_1	Y_2	Y_3	Y_4	Y_5	Y_6	Y_7	Y_8	Y_9
Transition costs										
Annual recurring cost										
Total annual costs										
Transition benefits										
Annual recurring benefits										
Total annual benefits										

* For non-monetised benefits please see summary pages and main evidence base section

Microsoft Office
Excel Worksheet

Evidence base (for summary sheets)

Problem under consideration

The Government is committed to increasing the rate of house-building, making housing supply more responsive to changes in demand. The current rate of house-building is at a record low, with net additions, under the last administration, standing at just 129,000 in 2009-10 while the number of households in England is projected to grow by 232,000 per year. In part this is due to wider market conditions, but the Government believes that aspects of the current land use planning system also play a part.

In addition to a wider package of reforms to the system, and the strong incentives provided by the New Homes Bonus, the Government believes that further action is needed to encourage the supply of housing. It is therefore proposing to amend the planning rules to make it easier to change use from commercial to residential use.

Under the Use Classes Order most buildings and development land are classified into four main categories: each of which is itself subdivided. A schedule of its main provisions is shown below. Broadly 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 homes and other residential uses including hotels; Class D covers non-residential institutions such as schools, halls, churches and cinemas.

Figure 1: Use Class Orders

A1 Shops	Shops, retail warehouses, hairdressers, travel and ticket agencies, post offices, pet shops, sandwich bars, internet cafés, showrooms, domestic hire shops, dry cleaners and funeral directors.	No permitted change
A2 Financial and Professional Services	Banks, building societies, estate and employment agencies, professional and financial services and betting offices.	Permitted change to A1 (Where there is a ground floor display window)
A3 Restaurants and Cafés	Establishments where the primary purpose is for the sale of food and drink for consumption on the premises - restaurants, snack bars and cafés.	Permitted change to A1 or A2
A4 Drinking Establishments	Public houses, wine bars or other drinking establishments (but not night clubs). In Wales, these uses are included within A3.	Permitted change to A1, A2 and A3
A5 Hot Food Takeaways	Establishments where the primary purpose is for the sale of hot food for consumption off the premises. In Wales, these uses are included within A3.	Permitted change to A1, A2 and A3
B1 Business	A) Offices - other than those in A2; B) Research and Development; C) Light Industry - use for any industrial process which can be carried out within a residential area without causing detriment to the amenity of that area.	Permitted change to B8 (where no more than 235 sqm)
B2 General Industrial	Use for any industrial process, other than that falling within B1.	Permitted change to B1; Permitted change to B8 (where no more than 235 sqm)
B8 Storage and Distribution	Storage or Distribution, including open air storage. In Wales, this excludes the storage or distribution of radioactive material.	Permitted change to B1 (where no more than 235 sqm)
C1 Hotels	Hotels, boarding and guest houses where no significant element of care is provided.	No permitted change
C2 Residential Institutions	Residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres.	No permitted change
C2A Secure Residential Institutions	Secure residential accommodation - Prisons, young offenders institutions, detention centres, secure training centres, custody centres, short term holding centres, secure hospitals, secure local authority accommodation and military barracks.	No permitted change
C3 Dwelling Houses	A) Houses occupied by a single person, couple, or family (also including an employer and domestic employees, as well as a carer and the person receiving care). B) Houses occupied by up to six people living together as a single household and receiving care (supported housing schemes). C) Houses occupied by up to six people living together as a single household which do not fall within the definition of C4 (e.g. a small religious community or a person/family with a lodger).	Permitted change to C4 (except where the Local Authority has made an Article 4 Direction removing this permitted change).
C4 Houses in Multiple Occupation	Houses occupied by between three and six unrelated individuals as their only or main residence, where basic amenities such as a kitchen or bathroom are shared (e.g. student lets). In Wales, such shared houses are included within C3.	Permitted change to C3
D1 Non Residential Institutions	Clinics, health centres, crèches, day nurseries, day centres, schools, art galleries, museums, libraries, places of worship, public halls, exhibition halls, church halls, law courts and non residential education and training centres.	No permitted change
D2 Assembly and Leisure	Cinemas, music and concert halls, bingo and dance halls (but not night clubs), swimming baths, skating rinks, gymnasiums or sports arenas (except for motor sports, or where firearms are used).	No permitted change
Sui Generis Not in any use class	Uses include for example: Theatres, houses in multiple paying occupation, hostels providing no significant element of care, scrap yards, petrol filling stations, shops selling and/or displaying motor vehicles, retail warehouse clubs, nightclubs, launderettes, taxi businesses, amusement centres.	No permitted change
	Casinos. In Wales, casinos are included within D2. In Wales, it is permitted to change from motor vehicle sales to A1.	Permitted change to D2

The Use Classes Order is primarily concerned with land use impacts. It works by grouping together uses which are considered to have similar land use impacts into classes. Changes of use within a class do not constitute development and therefore planning permission is not required.

Further flexibility is provided by the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (the General Permitted Development Order) which grants permitted development rights to allow certain changes of use between classes, where the impact of the proposed use is considered to be less than the existing use, to happen freely without the need for planning applications.

The Use Classes Order and General Permitted Development Order are deregulatory mechanisms which remove unnecessary applications from the planning system.

Under the current rules, apart from changes of use from C4: Houses in multiple occupation, all other material changes of use to C3: Dwelling houses require planning applications. Local planning authorities determine planning applications on a case by case basis depending on the individual circumstances of each case. They assess applications against policies in the local plan.

Land Use Statistics show that in 2005, 10 per cent of England was developed; domestic buildings covered just 1.1 per cent; and commercial offices 0.1 per cent.[2] Looking at recent

[2] Land Use Statistics (Generalised Land Use Database) 2005 http://www.communities.gov.uk/publications/planningandbuilding/generalisedlanduse

Land Use Change Statistics shows the reliance on existing residential sites for the provision of new dwellings. As the table below shows, nationally between 2006 and 2009 37 per cent of land developed for housing was previously residential. In London and the South East the proportion rises to around 50 per cent.

Figure 2: previous use of land changing to residential use, 2006 to 2009

	Government Office Regions									
Previous use of land	North East	North West	Y'shire and the Humber	East Mid	West Mid	East of Eng	Lon	South East	South West	**Eng**
Agriculture	29	18	24	36	21	30	0	19	37	25
Urban not previously developed	8	5	7	5	4	4	2	4	2	4
Other not previously developed[1]	3	3	2	4	3	3	2	2	3	3
All Not previously developed	**40**	**26**	**33**	**44**	**29**	**38**	**4**	**26**	**42**	**33**
Residential	19	27	32	29	34	40	54	50	39	37
Vacant and derelict	33	29	12	12	21	11	21	10	4	14
Other previously developed uses[2]	9	18	23	15	16	12	20	14	15	16
All previously developed	**60**	**74**	**67**	**56**	**71**	**62**	**96**	**74**	**58**	**67**

Source: DCLG Land Use Change Statistics, Live Table 221-226:
http://www.communities.gov.uk/documents/planningandbuilding/xls/1658106.xls

In contrast, in 2009, just 2.8 per cent of land changing to residential use came from land previously used as offices, 5.9 per cent from land previously used in retail and 3.6 per cent from storage and warehousing.

Rationale for intervention

The Government is committed to boosting housing supply to deliver the homes that people need. There is a shortage of housing land nationally relative to the demand for housing, a shortage which is revealed in the relative value of land for housing compared to its value in other uses. And some land in other uses may be suitable for residential use. We are all aware of office blocks lying empty, even in areas with buoyant commercial markets, with many becoming dilapidated. However, the clearest evidence of this oversupply is in the relative land values of commercial and housing land – in some cases housing land is twice the price of that available for commercial uses.

This price differential has grown over time which suggests that factors other than market forces are having an impact. In some areas the market response is to demolish old buildings and replace with new property where the market can command a higher rent yield. The planning system, and in particular controls over change of use, are clearly a part of this. If there was complete freedom to change between uses, over time, supply would simply adjust to the price differences resulting in more land for housing, where there was sufficient demand.

Removing the requirement to submit planning applications for changes of use from business to residential, and so the associated costs and delay, may encourage developers to bring forward more land and buildings for housing use where the financial model works.

Making it easier for land to be used for its most valuable purpose, whilst still protecting against damaging spill-over effects, will reduce transaction costs and increase economic efficiency. As discussed in detail below, in the absence of controls the market would allocate land according to its most valuable use reflecting the underlying demand for what can be done with the land, be it housing or industrial output, agricultural production or retail consumption.

In this case, making it easier to change the use of buildings and land from commercial use classes to C3: Dwelling houses will help to reduce transactions costs faced by developers and encourage the more efficient use of land. It will more easily allow land and buildings for housing development to come forward as well as result in less land and buildings for other uses, where relative values show there to be lower demand for such uses. It is the price differential between sites in different uses which illustrates the scale of the efficiency gain possible.

The value of land reflects the value of the output provided from it (housing, agricultural produce, manufactured goods, office space, etc). Urban economics shows that in the absence of controls land in different uses is more valuable the closer it is to town centres as illustrated below in academic research focusing on the Reading area[3]. As expected, for all types of land use apart from agriculture, the value of land increases as it gets closer to the centre, reflecting the relative scarcity of this land in relation to the demand for it.

However the impact of planning restrictions for certain types of development can be to cause discontinuities in land prices. This is shown by different values for land by use category for a given distance from the centre; in a free-market such differences would not exist over the long-run as supply adjusted to the price differences. For example, the price of industrial land at the urban fringe of Reading is around £650,000 per ha (January 2010) while the price of residential land is more than £1.2m ha. Whilst there may be other difficulties involved in building on industrial land, which may make planning intervention appropriate, these are unlikely to justify such a vast differential in land value.

This suggests that from an economic perspective, more land currently in uses such as industry could be switched to residential and other development without, in many cases, the wider costs outweighing the private and social benefits. The table below indicates the scale of the land value differential for a number of locations:

[3] *Barker Review of Land Use Planning: Interim report - analysis* (2006) http://www.communities.gov.uk/documents/planningandbuilding/pdf/151105.pdf

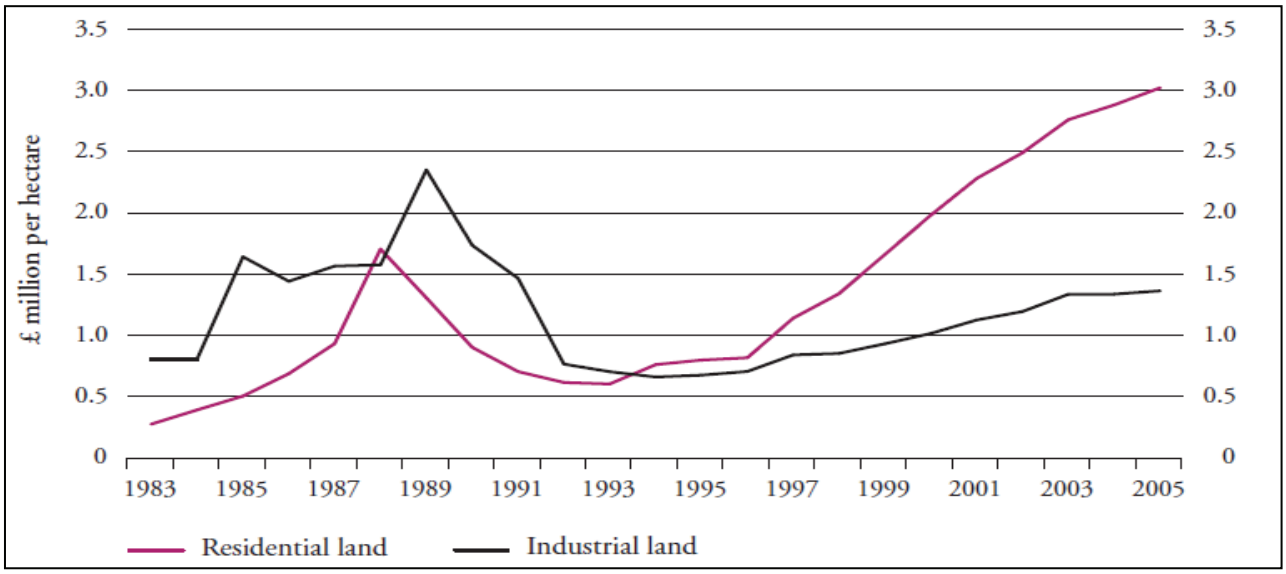
Figure 4: Price differential between residential and industrial land (Jan, 2010)

Region	Location	Residential (£/Ha)	Industrial (£/Ha)	Mutiple of residential £/Ha to industrial £/Ha
South West	Bristol	2,200,000	850,000	2.6
	Plymouth	1,500,000	400,000	3.8
South East	Reading	2,750,000	1,900,000	1.4
	Oxford	4,000,000	1,000,000	4.0
West Midlands	Birmingham	1,200,000	650,000	1.8
	Stoke	1,000,000	300,000	3.3
North West	Liverpool	1,500,000	450,000	3.3
	Manchester	1,350,000	650,000	2.1
Wales	Cardiff	2,750,000	620,000	4.4
	Wrexham	850,000	260,000	3.3
Scotland	Glasgow	1,100,000	370,000	3.0
	Edinburgh	2,350,000	900,000	2.6
London Outer	Ealing	4,700,000	3,000,000	1.6
	Croydon	4,037,500	2,000,000	2.0

Source: Property Market Report, VOA (2010)

And as the chart below shows, this differential has grown over time. As discussed above in relation to spatial discontinuities, temporal divergences such as this would be less prevalent if land could change use more easily. In turn it suggests that more land would be made available for housing use in the absence of controls and that this increase in supply would begin to impact on the price differential.

Figure 5: South East residential and industrial land values (£m/hectare, 1983 – 2005)



Source: VOA

Policy objective

The objective is to allow land and buildings to more easily transfer to use as housing from their current commercial use. The intended effect of the proposal is to increase housing supply. By encouraging development on brownfield land the proposal will help to reduce the pressure on greenfield sites. It will also promote the regeneration of commercial land and bring empty properties back into productive use.

Description of options considered

Option 1: Do nothing. Permitted development rights between use classes (as set out in the Town and Country Planning (Use Classes) Order 1987 (as amended)) remain as currently set out in the Town and Country Planning (General Permitted Development) Order 1995 (as amended). This means that an application for planning permission is required for material changes of use from B use classes to C3: Dwelling houses.

Option 2: Amend the Town and Country (General Permitted Development) Order 1995 (as amended) to grant permitted development rights to move from B1: Business use to C3: Dwelling houses use.

Under this option business uses falling within the B1 use class would be able to convert to housing falling within the C3 use class without the need to submit planning applications.

Option 3: Amend the Town and Country (General Permitted Development) Order 1995 (as amended) to grant permitted development rights to move from B1, B2 and B8: Business uses to C3: Dwelling houses use.

Under this option business uses falling within the B1, B2 and B8 use classes would be able to convert to housing falling within the C3 use class without the need to submit planning applications.

The proposals relate only to the change of use of buildings or land. Where a development requires any additional work to an existing building or is a new build development, applications for planning permission will be required in the normal way.

Costs and benefits of each option

Sectors and groups affected:

- **Housing developers**

Housing developers will benefit from this policy as they are no longer required to submit planning applications to change use from commercial to residential use. This represents a reduction in transaction costs, including planning application fees that would previously have been paid.

- **Housing consumers**

The central policy objective in making this change is to facilitate an increase in appropriate housing development. Where this occurs there is a benefit to the end consumer of that

additional housing, be it for rent or ownership. This benefit can be captured by the land value uplift that occurs as a result of the change of use. It is difficult in advance to estimate the extent of additional housing units as a direct result of this change, especially given the extensive wider reforms to planning for housing, for example the removal of regional strategies and the introduction of the New Homes Bonus. This concerns the need to isolate the impact on housing development from this proposal alone, and across the variety of functional housing market areas that will be affected.

- **Property owners**

Owners of buildings that fall into the category affected by the change, and which are suitable for housing, may see an increase in demand for their property. The maximum this increase can be is the difference between the value of a site in its current (commercial) use and its value as housing. This would arise where previously the probability of obtaining planning permission for housing was zero and is now certain; in practice the increase will be somewhere within this range as there are likely to be few examples of sites with zero probability of permission previously and so such a stark change in the probability of obtaining planning permission is unlikely.

- **Wider business**

If the change leads to fewer sites, which are currently in economic use, being available for commercial use then wider business may see a marginal increase in the price of renting commercial space. This may influence negotiation at the time of rent reviews, which are often upward only anyway, so existing firms may pay higher rents or decide to move and incur the transaction costs associated with moving to find properties which offer better value. The extent to which this risk may arise depends on local circumstances and the relative balance of demand for land and buildings for commercial use and the supply; where supply is relatively elastic with respect to demand then we would not expect to see any significant impact. And the evidence around vacancy rates in the commercial sector, which averaged around 9 per cent between 1998 and 2005 is indicative of supply being more responsive to demand for land for commercial use than it is for housing. And this risk will be mitigated to the extent that more land overall is provided for development, including business use, and so the changes proposed here simply affect the costs associated with changing use of land.

- **Local authorities**

Local authorities will benefit by this policy due to the reduced planning process required on premises that meet the policy criteria. They will benefit from corresponding administration savings which could be used to provide other services. They will also though see a decrease in fee income that would have arisen if planning applications were still required.

Local authorities may incur some marginal costs of familiarisation with this policy, though this will be time-limited and small.

There may be increased pressure on other local authority regulatory regimes (for instance environmental health officers regarding noise issues) or their budgets (they may have to fund additional road calming measures in the absence of developer agreements).

- **Local communities**

As with any change of use there may be externalities associated with that change. In advance it is difficult to know whether such externalities are positive or negative. It is possible that in a particular case a change of use to housing may result in, for example, higher traffic density, on

the other hand where sites are empty or derelict for a long time then a change of use to residential may result in an increase in amenity.

Local communities will lose the opportunity to comment on such development proposals through the planning system. However survey evidence (Saint Index 2006) shows that 67 per cent of respondents would strongly/somewhat oppose an office development compared to 33 per cent who would oppose housing development.

- **Benefits from additional housing units**

By providing more flexibility it is anticipated that this policy will induce additional change of use to housing. As discussed, increased housing development will lead to an improvement in economic efficiency and overall welfare reflecting the more efficient use of scarce land as housing, for which there is relatively strong demand compared to other uses. This is the main objective of the policy change and the extent of the increase is approximated by the land value uplift between residential and commercial. And this housing benefit is quantified here with reference to this land value uplift.

Option 1: Do nothing (baseline)

There are no new or additional costs and benefits associated with this option which would maintain the status quo. There are, however, ongoing costs to applicants of submitting change of use planning applications (compared to Option 2 and 3). And any benefits associated with increased housing delivery from the relaxation envisaged here (Option 2 and 3) would not arise. Similarly, any costs associated with Option 2 and 3 – for example, any adverse impact in amenity – would not arise from the do nothing option.

Option 2: New permitted development rights for changes of use from B1 to C3

ASSUMPTIONS

For the purpose of the analysis presented here it is necessary to make a number of assumptions. In part these relate to the potential behavioural response as a result of the policy changes. And there are another set of assumptions concerning the data around the number of applications that are change of use and the proportion of residential development by previous land use. The key assumptions are:

1. On average across 08/09 and 09/10 there were around 15,135 dwellings which came from change of use. Of these we estimate around 3,900 were from B1 to C3. This represents just 0.2 per cent of the stock of B1 floor space per annum.

Figure 6: Change of Use from B1 to C3 (annual)

	Dwellings from Change of Use	Estimated proportion from B1*	Dwellings from B1	Estimated B1 floorspace 000 m sq	Estimate of maximum dwellings from current stock of B1 floorspace	Dwelling from B1, rate of conversion
North East	420	19%	79	11,118	148,240	0.1%
North West	1,755	24%	420	27,747	369,960	0.1%
Y'shire & Humber	1,700	30%	510	22,215	296,193	0.2%
West Midlands	1,450	30%	385	22,605	301,393	0.1%
East Midlands	1,265	30%	429	17,385	231,800	0.2%
East of England	1,330	24%	320	18,016	240,213	0.1%
London	2,910	29%	831	33,036	440,480	0.2%
South East	2,195	25%	539	25,956	346,073	0.2%
South West	2,110	19%	404	15,649	208,653	0.2%
England	**15,135**	**26%**	**3,917**	**193,726**	**2,583,007**	**0.2%**

* Offices plus 50% factories used as proxy for B1 use

2. To convert the 3,900 B1 to C3 dwellings into change of use applications the analysis assumes that these dwellings occupy 2938 (000 sq m) and that the floor space per typical B1 site is 0.5 (000 sq m). This gives 5,876 change of use applications over ten years.

3. A change of use planning application fee of £335 per dwelling.[4] Analysis by Arup estimates that the average administrative cost to applicants for a small residential development is £25,100.[5] This, along with the fee therefore presents an estimate of the costs avoided for those applicants who no longer need to seek planning approval for a change of use. This may represent an underestimate of the cost saving as for major residential developments the administrative costs are likely to be higher.

4. We have assumed 6 per cent of planning applications give rise to appeals.[6] This is based on the number of change of use appeals received in 2009/10 as a proportion of the number of change of use planning decisions in England, year ending March 2010.

5. There are no fees for submitting planning appeals at the moment.

6. Most appeals will be determined by written representation from appellants. We have assumed an administrative cost of £2,000, although we consider that, in many cases, the additional cost of submitting an appeal will be lower, as all the information needed will be provided at the application stage and there will be no additional consultancy costs.

[4] http://www.opsi.gov.uk/si/si2008/draft/ukdsi_9780110809892_en_1
[5] http://www.communities.gov.uk/documents/planningandbuilding/pdf/benchmarkingcostsapplication.pdf
[6] The Planning Inspectorate, Statistical Report: England, 2009/10. (Page 15.) http://www.planningportal.gov.uk/uploads/pins/statistics_eng/09_10/full_report.pdf

Benefits

BENEFITS TO APPLICANTS (DEVELOPERS)
This option would provide developers with greater flexibility and would result in increased savings in terms of not incurring costs of submitting a change of use planning application. The benefits to developers are the cost savings associated with permitted development: the administrative cost and fee for a planning application (see assumptions 3 and 6 above). Furthermore, there will be a reduction in the number of related appeals. The savings relate to those applicants who would have applied for planning permission had this policy not been introduced (i.e. the baseline). Figure 7 presents the average annual cost savings to developers.

Figure 7: Average annual cost savings to developers ('existing')

	£m
Administrative savings	14.7
Fee savings	1.3
Savings of written representation for appeals	0.1
Total savings	**16.1**

Over 10 years this equals savings to existing developers of £139m (Net Present Value).

BENEFITS TO LOCAL AUTHORITIES
Local authorities will benefit from reduced applications, freeing-up resources to be employed elsewhere. However they will also now not receive the fee income associated with the applications previously received. We make the assumption fees do not fully cover costs and so some administrative savings will arise, cautiously estimated administrative savings of 10 per cent of the total fee revenue. For residential planning applications, the fee is paid for each dwelling house (where the number created by the development is 50 or fewer).[7] Based on the 3,917 dwellings this equals an estimated annual administration saving of £130,000 p.a. (£1.1m Net Present Value over 10 years).

[7] http://www.legislation.gov.uk/ukdsi/2008/9780110809892/schedule/1

There are likely to be cost savings associated with a reduced number of appeals (including those appeals that would have occurred anyway and also additional appeals). This is based on the assumption that these cases will be dealt with by written representations and an average cost to local planning authorities of £800 per appeal. Assuming 6 per cent of applications give rise to an appeal (see assumption 4 above) this gives an average annual savings from appeals of £30,000 or £240,000 in total over 10 years (Net Present Value).

BENEFITS TO THE PLANNING INSPECTORATE

There will be benefits associated with determining a reduced number of appeals. This is based on the full corporate cost of a planning inspector's time to determine the appeal (including direct costs of the inspector, chargeable overheads and administrative support) of an average £1,000 per day. Minor written representations cases take an inspector on average 1 day to deal with. Average annual savings from appeals are estimated to be £40,000 or £300,000 in total over 10 years (Net Present Value).

BENEFITS TO PROVIDERS OF NEW DWELLINGS

It is anticipated that this policy will induce a change of behaviour bringing forward more housing development. In practice the scale of this effect will be influenced by a number of factors, most notably the wider market conditions. By way of illustration, if 1 per cent of the current stock of B1 floor space were to shift as a result of this change it would result in an estimated 25,830 additional dwellings. The table below shows estimates of the additional dwellings for switches between B1 and C3 of up to 5 per cent.

Figure 8: potential additional dwellings from increase in rate of change

as % of current stock of B1 floorspace:	1.0%	2.0%	3.0%	4.0%	5.0%
North East	1,482	2,965	4,447	5,930	7,412
North West	3,700	7,399	11,099	14,798	18,498
Yorkshire & Humber	2,962	5,924	8,886	11,848	14,810
West Midlands	3,014	6,028	9,042	12,056	15,070
East Midlands	2,318	4,636	6,954	9,272	11,590
East of England	2,402	4,804	7,206	9,609	12,011
London	4,405	8,810	13,214	17,619	22,024
South East	3,461	6,921	10,382	13,843	17,304
South West	2,087	4,173	6,260	8,346	10,433
England	**25,830**	**51,660**	**77,490**	**103,320**	**129,150**

And as for existing developers, for any policy induced dwellings there will be a saving to developers in terms of the costs of the planning application process. Applying this saving along with savings in application fees and any appeals that may otherwise have occurred and resulted in costs, to the units (and therefore applications) brought about by a 1 per cent shift from B1 to C3 would give an additional average annual saving of around £100m. This potential benefit is illustrated here but not included in the summary costs and benefits sheet at the front of the assessment.

BENEFITS TO CONSUMERS OF NEW DWELLINGS

The central policy objective in making this change is to facilitate an increase in appropriate housing development. Where this occurs there is a benefit to the end consumer of that additional housing, be it for rent or ownership. This benefit can be captured and monetised by the land value uplift that occurs as a result of the change of use (see Figure 5 above).

Additional development will create economic value. One way to measure this is through the of use of the land value uplift from housing units, which can be viewed as a measure of the increase in welfare that arises from the more efficient use of land (in this case for housing rather than its previous B1 use).

In short, this approach uses land value changes following the approval of new housing developments as a measure of the 'private' value of additional housing and then nets off any external impact (which may be positive or negative). It can be summarised as follows:

1. Net private value of new housing = residential land value – existing land use value.
2. Net social value of new housing = net private value of new housing + net external impact of housing development.

Option 3: New permitted development rights for changes of use from B1, B2 and B8 to C3

ASSUMPTIONS
As with Option 2, it is necessary to make a number of assumptions. Broadly the assumptions are the same as for Option 2. The key assumptions are:

1. On average across 2008-09 and 2009-10 there were around 15,135 dwellings which came from change of use. Of these we estimate around 8,300 were from B1, B2 and B8 to C3. This represents just 0.4 per cent of the stock of B1, B2 and B8 floor space per annum.

Figure 9: Change of Use from B1, B2 and B8 to C3 (annual)

	Dwellings from Change of Use	Estimated proportion from B1*, B2** and B8***	Dwellings from B1, B2 and B8	Estimated B1, B2 and B8 floorspace 000 m sq	Estimate of maximum dwellings from current stock of B1, B2 and B8 floorspace	Dwelling from B1, B2 and B8 rate of conversion
North East	420	40%	166	23,980	319,733	0.2%
North West	1,755	57%	999	68,298	910,640	0.3%
Yorkshire and the Humber	1,700	63%	1,079	54,506	726,747	0.5%
West Midlands	1,450	65%	818	55,860	744,793	0.4%
East Midlands	1,265	63%	915	49,947	665,953	0.4%
East of England	1,330	57%	756	44,554	594,053	0.4%
London	2,910	52%	1,520	53,334	711,120	1.0%
South East	2,195	49%	1,080	55,186	735,813	0.5%
South West	2,110	46%	964	36,707	489,427	0.6%
England	**15,135**	**56%**	**8,298**	**442,372**	**5,898,280**	**0.4%**

* Offices plus 50% factories used as proxy for B1 use
** 50% factories used as proxy for B2 use
***Warehouses used as proxy for B8 use.

2. To convert the 8,300 B1, B2 and B8 to C3 dwellings into change of use applications the analysis assumes that these dwellings occupy 6,223 (000 sq m) and that the floor space per typical B1 class site is 0.5 (000 sq m) and for B2 and B8 class site is 0.8 (000 sq m). This gives 9,983 change of use applications over ten years.

3. A change of use planning application fee of £335 per dwelling.[8] Analysis by Arup estimates that the average administrative cost to applicants for a small residential development is £25,100.[9] This, along with the fee therefore presents an estimate of the costs avoided for those applicants who no longer need to seek planning approval for a change of use. This may represent an underestimate of the cost saving as for major residential developments the administrative costs are likely to be higher.

[8] http://www.opsi.gov.uk/si/si2008/draft/ukdsi_9780110809892_en_1
[9] http://www.communities.gov.uk/documents/planningandbuilding/pdf/benchmarkingcostsapplication.pdf

4. We have assumed 6 per cent of planning applications give rise to appeals.[10] This is based on the number of change of use appeals received in 2009-10 as a proportion of the number of change of use planning decisions in England, year ending March 2010.

5. There are no fees for submitting planning appeals at the moment.

6. Most appeals will be determined by written representation from appellants. We have assumed an administrative cost of £2,000, although we consider that, in many cases, the additional cost of submitting an appeal will be lower, as all the information needed will be provided at the application stage and there will be no additional consultancy costs.

Benefits

BENEFITS TO APPLICANTS (DEVELOPERS)
This option would provide developers with greater flexibility and would result in increased savings in terms of not incurring costs of submitting a change of use planning application. The benefits to developers are the cost savings associated with permitted development: the administrative cost and fee for a planning application (see assumptions 3 and 6 above). Furthermore, there will be a reduction in the number of related appeals. The savings relate to those applicants who would have applied for planning permission had this policy not been introduced (i.e. the baseline). Figure 10 presents the average annual cost savings to developers.

Figure 10: Average annual cost savings to developers ('existing')

	£m
Administrative savings	25.1
Fee savings	2.8
Savings of written representation for appeals	0.1
Total savings	**28.0**

Over 10 years this equals savings to existing developers of £241m (Net Present Value).

BENEFITS TO LOCAL AUTHORITIES
Local authorities will benefit from reduced applications, freeing-up resources to be employed elsewhere. However they will also now not receive the fee income associated with the applications previously received. We make the assumption fees do not fully cover costs and so some administrative savings will arise, cautiously estimated administrative savings of 10 per cent of the total fee revenue. For residential planning applications, the fee is paid for each dwelling house (where the number created by the development is 50 or fewer)[11]. Based on the 8,300 dwellings this equals an estimated annual administration saving of £280,000 p.a. (£2.4m Net Present Value over 10 years).

[10] The Planning Inspectorate, Statistical Report: England, 2009/10. (Page 15.) http://www.planningportal.gov.uk/uploads/pins/statistics_eng/09_10/full_report.pdf
[11] http://www.legislation.gov.uk/ukdsi/2008/9780110809892/schedule/1

There are likely to be cost savings associated with a reduced number of appeals (including those appeals that would have occurred anyway and also additional appeals). This is based on the assumption that these cases will be dealt with by written representations and an average cost to local planning authorities of £800 per appeal. Assuming 6 per cent of applications give rise to an appeal (see assumption 4 above) this gives an average annual savings from appeals of £50,000 or £410,000 in total over 10 years (Net Present Value).

BENEFITS TO THE PLANNING INSPECTORATE

There will be benefits associated with determining a reduced number of appeals. This is based on the full corporate cost of a planning inspector's time to determine the appeal (including direct costs of the inspector, chargeable overheads and administrative support) of an average £1,000 per day. Minor written representations cases take an inspector on average 1 day to deal with. Average annual savings from appeals are estimated to be £60,000 or £520,000 in total over 10 years (Net Present Value).

BENEFITS TO PROVIDERS OF NEW DWELLINGS

It is anticipated that this policy will induce a change of behaviour bringing forward more housing development. In practice the scale of this effect will be influenced by a number of factors, most notably the wider market conditions. By way of illustration, if 1 per cent of the current stock of B class floor space were to shift as a result of this change it would result in an estimated 58,983 additional dwellings. The table below shows estimates of the additional dwellings for switches between B1, B2 and B8 and C3 of up to 5 per cent.

Figure 11: potential additional dwellings from increase in rate of change

as % of current stock of B1, B2 and B8 floorspace:	1.0%	2.0%	3.0%	4.0%	5.0%
North East	3,197	6,395	9,592	12,789	15,987
North West	9,106	18,213	27,319	36,426	45,532
Yorkshire & Humber	7,267	14,535	21,802	29,070	36,337
West Midlands	7,448	14,896	22,344	29,792	37,240
East Midlands	6,660	13,319	19,979	26,638	33,298
East of England	5,941	11,881	17,822	23,762	29,703
London	7,111	14,222	21,334	28,445	35,556
South East	7,358	14,716	22,074	29,433	36,791
South West	4,894	9,789	14,683	19,577	24,471
England	**58,983**	**117,966**	**176,948**	**235,931**	**294,914**

And as for existing developers, for any policy induced dwellings there will be a saving to developers in terms of the costs of the planning application process. Applying this saving along with savings in application fees and any appeals that may otherwise have occurred and resulted in costs, to the units (and therefore applications) brought about by a 1 per cent shift from B1, B2 and B8 to C3 would give an additional average annual saving of around £195m. This potential benefit is illustrated here but not included in the summary costs and benefits sheet at the front of the assessment.

BENEFITS TO CONSUMERS OF NEW DWELLINGS
As with Option 2 there will be benefits to consumers of additional housing (see discussion under Option 2).

Costs - Option 2 and Option 3

Overall, there are no significant additional administrative costs associated with either option. As discussed above, there is a risk of higher rents to commercial users of buildings to the extent that sites are now less readily available for such uses; however it is difficult to quantify this in advance as the extent of any increase will depend on the overall availability of sites for development in an area.

COSTS TO LOCAL COMMUNITIES
There is a risk that both options may be perceived by some as a loss of control for local authorities and their ability to consider the wider external costs and benefits of development in coming to a decision.

Broadly, as the permitted development right would be extended to B use classes, it is likely that such impacts will be similar to housing developments, for example in terms of footfall, traffic and parking. In advance it is difficult to know whether such externalities are positive or negative; where sites are empty or derelict for a long time then a change of use to residential may result in an increase in amenity.

And if the impacts are broadly similar it is unlikely to have any potential costs in terms of additional infrastructure requirements. However it is possible that a change of use to housing may result in, for example, higher traffic density.

COSTS TO LOCAL AUTHORITIES
By removing the need for planning permission for some types of development, local authorities will not have the ability to attach any conditions to permission so may need to use their other regulatory powers instead. It is possible that this option could lead to the use of Article 4 directions in order to remove permitted development rights where a local authority sees a real and specific threat in allowing unrestricted housing development. It is for the local authority to bear the costs of making Article 4 directions and processing any planning applications submitted as a result. The benefits of issuing directions, in terms of controlling development, must outweigh the financial costs incurred by local authorities.

In areas where there is a need to control housing development and local authorities decide to use Article 4 directions, there will be associated costs to local planning authorities including:

- the administrative cost of processing planning applications as the fee is waived where Article 4 directions have been made
- costs associated with publicising and consulting on the Article 4 directions
- there may be costs associated with putting together an evidence base to justify the use of directions however where there are existing concerns about the need to protect business uses local authorities will already have evidence to support local policies

- local planning authorities may be liable to pay compensation to developers on removal of the permitted development right. We propose that this liability is not capped by application of s189 of the 2008 Planning Act

COSTS TO BUSINESS

With the process of changing from commercial to residential use made easier, there is a risk of a reduction in the supply of commercial land/property relative to the demand for this use, which in turn may place upward pressure on rents. In practice there is evidence that suggests any such pressure will be low.

Firstly, the value of land and buildings in business/industrial use, which is typically many times lower than the value of land for housing, is the clearest evidence of the relative undersupply of land for housing – compared to the supply of land for other uses, such as commercial/industrial. As figure 4 shows in some cases housing land is as high as four times the value of that available for industrial uses.

Vacancy rates offer further evidence of the supply of land and buildings for different uses relative to demand for those uses. For example, between 1998 and 2005 the average vacancy rate in the commercial sector in England was around 9 per cent (see below). In contrast vacancy rate in the housing sector is around 3 per cent, one of the lowest in the European Union. It should be noted however that we would expect a certain level of vacancies in each sector reflecting the natural churn in the property market. In addition, vacancy rates will vary across the economic cycle and will typically be higher during and following times of recession.

Figure 12: B1, B2 and B8 vacant space

	Estimate of maximum dwellings from current stock of floorspace	Vacancy rate*	Estimate of maximum dwellings from vacant floorspace	Estimate of maximum dwellings from long term vacant floorspace**
North East	319,733	7%	22,381	11,191
North West	910,640	10%	91,064	45,532
Yorkshire and the Humber	726,747	8%	58,140	29,070
West Midlands	744,793	8%	59,583	29,792
East Midlands	665,953	11%	73,255	36,627
East of England	594,053	8%	47,524	23,762
London	711,120	11%	78,223	39,112
South East	735,813	9%	66,223	33,112
South West	489,427	6%	29,366	14,683
England	**5,898,280**	**9%**	**525,760**	**262,880**

* based on vacancy rate for offices
** Assumes 50% of vacant office space is long term vacant

The table above estimates the potential to build dwellings on long-term vacant B1, B2 and B8 floor space. Assuming 50 per cent of vacant space is long-term empty then there is potential to build in total around 262,880 new dwellings. If all of any shift from all the B classes to C3 (see figure 12) occurs on vacant space then there will be no increase in rents.

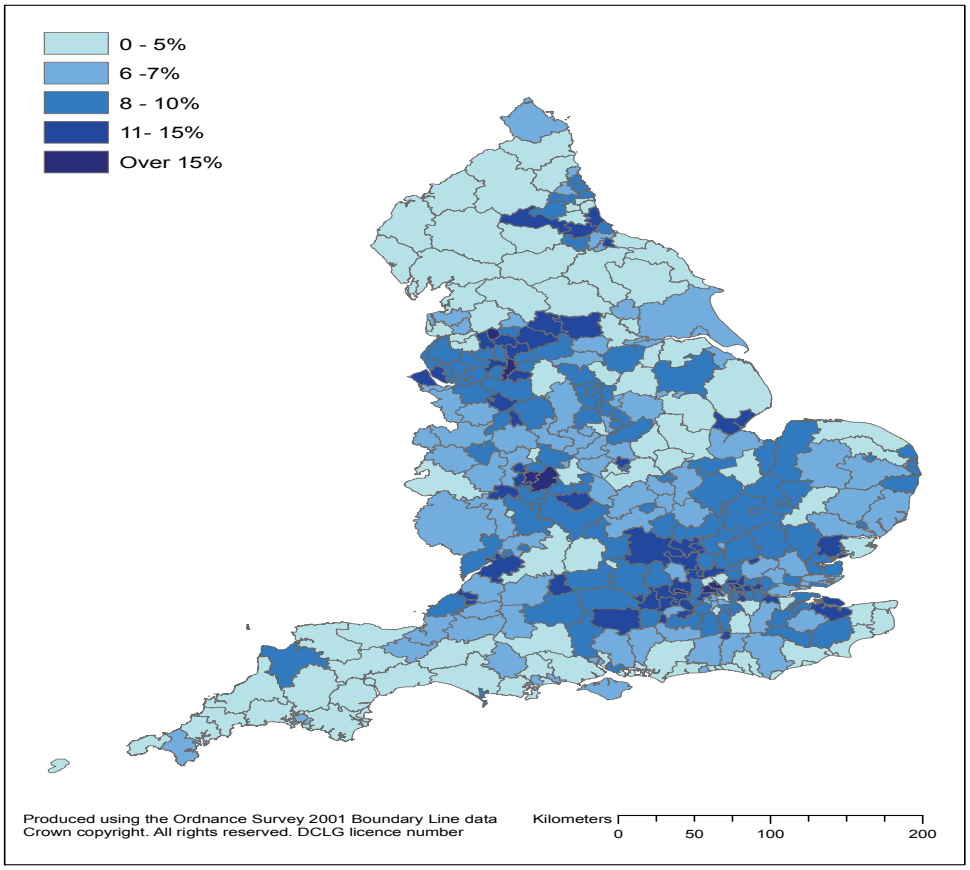
The risk of upward pressure on rents may be thought to be greatest in major cities, in particular London, where demand for commercial/industrial space is greatest. However the evidence on vacancy rates suggests that they are highest in these cities as the table below shows:

Figure 13: Highest estimated vacancy rates (per cent): Local authority districts 2004-05

	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04	2004/05
Hackney	30	28	24	21	22	20	28
Slough	12	10	13	14	17	18	20
Birmingham	18	16	16	15	14	15	19
Ealing	12	18	18	19	18	18	18
Manchester	21	22	22	21	16	17	18
Hyndburn	7	10	6	9	12	13	17
City of London	8	8	9	6	9	14	16
Brent	12	12	15	18	19	16	16
Sandwell	10	11	11	12	13	14	16
Wolverhampton	13	13	12	13	12	14	15

Only where the vacancy rate falls to low levels, for example around 2 to 3 per cent, is the relatively small impact of this proposal likely to put any upward pressure on rents. On average between 1998 and 2005 30 per cent of local authorities had vacancies of up to 5 per cent and as the map below shows these tend to be areas of less housing stress.

Figure 14: Vacancy rates by local authority



Direct costs and benefits to business calculations (following One In One Out methodology)

For **Option 2**: This policy lowers the regulatory burden on business i.e. developers. The net cost savings represent the sum of the administrative cost savings of no longer applying for planning permission and no longer paying an application fee; average annual savings are estimated at £16.1m (£139m over 10 years in present value terms).

For **Option 3**: This policy lowers the regulatory burden on business i.e. developers. The net cost savings represent the sum of the administrative cost savings of no longer applying for planning permission and no longer paying an application fee; average annual savings are estimated at £28.0m (£240m over 10 years in present value terms).

New burdens

For **Option 2**: Average annual savings to local authorities are estimated at £160,000 (£1.3m over 10 years in present value terms). This is the total savings from administration savings from processing planning applications and reduced number of appeals.

For **Option 3**: Average annual savings to local authorities are estimated at £330,000 (£2.8m over 10 years in present value terms). This is the total savings from administration savings from processing planning applications and reduced number of appeals.

Specific impact tests

Statutory equality duties

We will seek views on whether there are any equalities impacts arising from this proposal during the consultation.

Economic impacts

Competition
We do not consider that this proposal would have any adverse impacts on competition other than the risk discussed above.

Small firms

We do not consider that this proposal would have any adverse impacts on small firms.

Environmental impacts

It may be argued that the proposals could lead to increased traffic due to higher population density and so could have a harmful impact on the environment and increase levels of carbon emissions by increasing road traffic. However, any traffic would tend to be diverted from other existing housing developments and therefore we do not anticipate the proposals having any adverse environmental impacts.

Social impacts

Health and well-being

We do not anticipate the policy option having any adverse impacts on health and well-being. By increasing housing provision the proposal may have a positive impact on health and wellbeing.

Human rights

We do not anticipate the policy option having any adverse impacts on human rights.

Justice system

We do not anticipate the policy option having any adverse impacts on the justice system.

Rural proofing

Rural areas like urban ones require additional housing development. If this policy leads to greater housing development taking place on existing sites of development, there should be less pressure on Greenfield sites.

Sustainable development

It may be argued that the proposals would result in more houses being located in unsustainable locations, such as industrial sites. However, this risk is minimal as these locations are unlikely to represent an attractive option for housing providers. Conversely, the proposals have the potential to positively impact sustainability, for example, by enabling change of use of a main town centre B1 use, which is highly accessible.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review Plan

A post-implementation review should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A post-implementation review should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the post-implementation review plan as detailed below. If there is no plan to do a post-implementation review please provide reasons below.

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review]; To review policy to assess extent of change of use and risk of shortage in land/buildings for commercial use.
Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?] To determine whether the policy is resulting in more B uses being changed to C3 use and so contributing to an increase in housing numbers and whether there have been any adverse impacts arising from the policy.
Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach] There will be no requirement for local authorities to monitor the number of changes of use occurring as a result of this policy. The review approach therefore could involve a survey of a representative sample of local authorities and other interested partners in three years time to evaluate whether there has been an increase in housing numbers as a result of B uses converting to C3 use.

Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured] We will seek to establish the baseline position through the consultation on this proposal by asking for information on the current extent of change of use from B to C3 and what the current impact of such development is.
Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives] The success criteria could include a positive response to the survey i.e. those surveyed indicated that they consider that the policy has resulted in an increase in housing numbers without significant adverse impacts.
Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review] The survey referred to above could assess to what extent respondents feel that the policy has resulted in an increase in changes of use from B to C3 use and whether this has resulted in increase in housing numbers overall. It could also seek views on whether there are considered to be any adverse impacts arising out of the policy.
Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here]

Add annexes here.