

Report to Cabinet
Wednesday 13 February 2013
Report of Head of planning services
Subject Permitted development rights for change of use from office to residential

Item

14

Purpose

To consider whether to prepare a case seeking an exemption for parts of the city from the forthcoming introduction of permitted development rights.

Recommendation

- a) To seek an exemption for parts of the city from the forthcoming introduction of permitted development rights.
- b) To ask the deputy chief executive (operations) to use delegated powers - in consultation with the portfolio holder for environment and development - to agree the detail of the case for submission to government by 22 February 2013.

Corporate and service priorities

The report helps to meet the corporate priority prosperous city & decent housing for all.

Financial implications

Financial implications of seeking the exemption are minimal and can be met from existing budget. Possible financial implications of the introduction of the permitted development are considerable, especially in terms of business rates but insufficient information exists to allow them to be calculated at this stage.

Ward/s: All wards

Cabinet member: Councillor Bremner – Environment and development

Contact officers

Graham Nelson - Head of Planning

01603 212530

Background documents: None

Report

Introduction

1. On 24 January 2013 the Department for Communities and Local Government wrote to all local planning authorities in England to alert them to the introduction of permitted development rights for change of use from B1(a) office to C3 residential purposes, which will come into force in Spring 2013.
2. The new rights will initially be time-limited for a period of three years. Towards the end of that period the government has stated it will consider whether they should be extended indefinitely.
3. The permitted development rights will be accompanied by a “tightly drawn prior approval process which will cover significant transport and highway impacts, and development in areas of high flood risk, land contamination and safety hazard zones”.
4. The letter also announced that local authorities would be given an opportunity to seek an exemption for specific parts of their area. The letter stated:

“If you consider that a specific part of your locality should be exempted from this change, and meets the criteria set out below, you now have an opportunity to request an exemption from these new rights. It should be recognised however that this measure is seen as an important contribution to assisting the economic well-being of the country and this is reflected in the high thresholds we are setting, which recognise that any loss of commercial premises will be accompanied by benefits in terms of new housing units, additional construction output and jobs. These benefits are potentially very substantial and are likely to be felt at the local authority level and wider.

Therefore, exemptions will only be granted in exceptional circumstances, where local authorities demonstrate clearly that the introduction of these new permitted development rights in a particular area will lead to:

- (A) the loss of a nationally significant area of economic activity; or
(B) substantial adverse economic consequences at the local authority level which are not offset by the positive benefits the new rights would bring.”*

5. If a local planning authority request an exemption it must relate only to the geographical area justifiable in the light of the above criteria.
6. Submissions seeking an exemption must be made by 22 Feb 2013.

Background

7. The government first considered the introduction of permitted rights allowing the change of use of offices to residential without the need for planning permission in a consultation on relaxation of rules concerning commercial to residential development published in 2011. This consultation asked for views on a number of issues including the change of use of shops and industrial premises to residential in addition to offices.

8. The city council responded to this consultation in June 2011 (following consideration of the consultation response at Cabinet on 1 June) stating its reasons for opposing the principle to the permitted development rights. The relevant extract from the consultation response is attached as appendix 1.
9. In July 2012 the government published a summary of the consultation responses and its response to the consultation. This made clear that the majority of those who has responded to the consultation opposed this aspect of the proposals and indicated that the government intended to rely on the guidance National Planning Policy Framework which encouraged permission to be granted for this change of use where appropriate.
10. Notwithstanding the July announcement, on 6 September 2012 the government announced, as part of a package of measures to support economic growth, that these permitted development rights would be introduced to better enable change of use from commercial to residential purposes. This was described as following “careful consideration of the April 2011 consultation” and as building on “the policy set out in paragraph 51 of the National Planning Policy Framework”. Paragraph 51 encourages local planning authorities to identify and bring back into residential use empty housing and buildings in line with local housing and empty homes strategies. Furthermore, it states that they should normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in the B use classes which includes offices) where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate.
11. The possible implications for the city of a major change to the recently agreed NPPF were considered in a paper reported to the sustainable development panel on 26 September 2012. The relevant extract identifying the main areas of concern about the impact on the local economy is attached as Appendix 2. Additionally the measure proposed would allow the conversion of offices to residences without any consideration of the development plan and whether the change fits within the strategic direction for growth being promoted by the local authority or other considerations including:
 - a) amenity of nearby or future residents of the area;
 - b) education, health, open space or play infrastructure is available to support the development and whether any contribution to enhancement through section 106 agreements is needed;
 - c) whether the units proposed meet housing need or whether there should be any element of affordable housing included within the scheme;
 - d) whether development complies with policies for renewable energy or water efficiency;
 - e) environment or impact on protected species;
 - f) crime or the fear of crime;
 - g) refuse collection arrangements or bike storage;
 - h) character and appearance of conservation areas;
 - i) vitality or viability of town centres;
 - j) encroachment of noise sensitive residential uses into noisy areas;
 - k) employment levels or the adequacy of office supply; or
 - l) regeneration and what will be done to prospects of redeveloping brownfield sites.

Case for seeking an Exemption

12. The government have given local authorities a very limited time period in which to apply for possible exemptions and have issued very restrictive criteria severely limiting the circumstances in which an exemption can be applied for.

13. Nevertheless, the initial view of officers is that Norwich has potential grounds to seek an exemption in relation to:

Firstly those areas of the city centre where the continued availability of office accommodation is crucial to delivering the economic strategy set out in the Joint Core Strategy; and

Secondly, other limited parts of the city where encroachment of residential accommodation into areas where noise issues are such that that the incompatibility between uses could threaten the ongoing operation of existing employers (possible examples may include office stock near the airport or in the late night activity zone).

14. It should be noted that exemptions sought are only likely be able to apply for comparatively limited area of the city and will effectively have to be based around consideration of the final four issues of those listed in paragraph 11 above.

15. Further work is needed to develop the best possible case for the exemption(s) and define the boundaries of the area to be proposed. Due to the tight timescale for the submission to be made to government and the timing of meeting there is no opportunity for the content of the case for the exemption to be considered by either cabinet or sustainable development Panel. It is therefore suggested that authority be delegated to the deputy chief executive (operations) to prepare the case and submit it on behalf of the Council in consultation with the portfolio holder for Environment and Development.

Relevant extract from Norwich City Council response in June 2011 to DCLG original consultation

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.

No

Through several key parts of legislation, policy and guidance and guidance the government has tasked local authorities through the planning system to deliver sustainable and inclusive patterns of urban development. This runs through PPS1 and PPS4 in particular. PPS1 requires local authorities to bring forward sufficient land for commercial development, PPS4 builds on this and requires assessments of detailed land or floorspace requirements for economic development.

This Council, working in partnership with its neighbouring Councils, has recently adopted a Joint Core Strategy. This strategy is supported by a comprehensive evidence base and identifies the need for provision of high quality office space particularly within the City Centre. The level of current office accommodation in the City Centre (and the level of it that will be retained and enhanced) has been taken into account in the work which underpins policies about the extent of provision of further employment land elsewhere within the Greater Norwich area.

Much of the office stock in the City is at the moment of poor quality and some is vacant. The market is not sufficiently strong to support widespread refurbishment and upgrading of the stock at present, though the evidence suggests it is essential that this be retained in order to allow grade A office accommodation to be provided in the medium term. Evidence suggests that the market to allow this will return in due course. Rental levels per sq m are currently higher for residential uses in the City Centre than for Office accommodation so in the short term there is clearly a risk that, if allowed to do so, the market pressures will result in the loss of office accommodation to residential uses which will be of detriment to the strength of the City Centre in the longer term and undermine recently adopted, widely supported and evidence based policies.

These proposals would be very likely to lead to a loss of offices in Norwich and many other town centres and increased office development in less sustainable locations on the edge of towns. This would have a serious impact on the vitality and success of the City Centre as a commercial centre serving not only the City but much of Norfolk.

Also, over time, the proposals may have a significant impact on the level of public transport service provision in the City. The City currently has a network of Park and Ride sites and ambitious plans to improve public transport routes into the City Centre providing improved accessibility to the City Centre to existing and new populations. If the level of office accommodation does not increase as planned these proposals may become less viable.

Furthermore it should also be noted that within its boundaries Norwich City currently has a five year housing land supply. There are a number of extant consents for residential development at relatively high densities in and around the City Centre which are currently marginal in terms of viability and the City Council, in accordance with government advice considers flexibility of its

planning (sec 106) requirements on a case by case. These proposals, if enacted as proposed, potentially have two serious implications for residential development:

- 1) The fact that change of use to residential from office could be brought forward without planning permission (and hence the opportunity to secure any sec 106 contributions) may significantly reduce the funds available for the provision of infrastructure necessary to serve new development. Sec 106 funds are crucial to the provision of education, open space, child play space and transportation services. In view of the state of public finances it is not realistic to suggest that if this income is foregone it can be met from other sources. Nor is it credible to suggest that it will be met by development on a voluntary basis.
- 2) It will potentially create a perverse incentive for the market to bring forward conversions to residential use ahead of new building meaning that the viability of the redevelopment of derelict brownfield sites will be further undermined.

Relevant extract from Sustainable Development Panel paper of 26 Sept 2012

This proposed measure potentially has very serious implications for Norwich. It was consulted on by government in 2011 and as recently as 3 July this year (in the response document to the 2011 consultation) the government signalled it was not intending to pursue this measure (Only 12% of the respondents to the consultation favoured this proposed change), instead relying on a proposed new policy in the NPPF stating that local planning authorities ‘...should normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in the B use classes) where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate...’

As the NPPF was only introduced in March this year for such a rapid change in policy to be introduced now provides little comfort to the development industry and planning profession that the impact of such a change has been understood.

The city council strongly objected to the proposal on the grounds that it would lead to loss of offices in the city centre and increased office development in unsustainable urban edge locations, additionally resulting in the potential loss of s106 receipts and future CIL revenues to fund infrastructure which would normally flow from such conversion schemes.

Integrated impact assessment



NORWICH
City Council

Report author to complete

Committee:	Cabinet
Committee date:	Wednesday 13 February 2013
Head of service:	Graham Nelson
Report subject:	Permitted development rights for change of use from office to residential
Date assessed:	29 th January 2013
Description:	Assessment of whether to apply for an exemption or not

	Impact			
Economic (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Finance (value for money)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Uncertain at this stage but case needs to demonstrate that financial benefits of exemption outweigh disbenefits
Other departments and services e.g. office facilities, customer contact	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
ICT services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Economic development	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Exemption would be based on supporting economic development strategies
Financial inclusion	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Social (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Safeguarding children and adults	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<u>S17 crime and disorder act 1998</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Exemption would allow proper consideration of crime issue where change of use from offices to residential proposed
Human Rights Act 1998	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

	Impact			
Health and well being	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Exemption would allow consideration of adequacy of amenity space where change of use proposed
Equality and diversity (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Relations between groups (cohesion)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Eliminating discrimination & harassment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Advancing equality of opportunity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Environmental (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Transportation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Exemption would allow broader consideration of transportation impacts of development
Natural and built environment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Exemption would allow consideration of design issues and impact on character
Waste minimisation & resource use	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Exemption would allow implementation of policies regarding water use
Pollution	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Sustainable procurement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

	Impact			
Energy and climate change	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Exemption would allow implementation of policies relating to renewable energy
(Please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Risk management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Recommendations from impact assessment				
Positive				
Assessment would suggest impacts of of exemption are largely positive. These must be weighed against the potential restriction being placed on the provision of housing in the City but the balance of this will need to addressed in the submission.				
Negative				
Neutral				
Issues				
None.				