

# Relaxation of the planning rules for change of use from business to residential: Consultation Questionnaire

The Government welcomes your views on the proposals set out in the consultation document, *Relaxation of planning rules for change of use from commercial to residential*, which is available on our website at: [www.communities.gov.uk/consultations](http://www.communities.gov.uk/consultations).

Our preference is to receive responses electronically and we would be grateful if you could return the completed questionnaire to the following e-mail address:

[C3consultation@communities.gsi.gov.uk](mailto:C3consultation@communities.gsi.gov.uk)

If you wish to post your response, however, please send the completed questionnaire 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

This consultation will run for 12 weeks 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.

✓

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

## About you

### i) Your details

<b>Name:</b>	<b>Noël James</b>
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<b>Name of organisation (if applicable):</b>	<b>Historic Towns Forum</b>
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### ii) Are the views expressed on this consultation an official response from the organisation you represent, or your own personal views?

<b>Organisational response</b>	<input checked="" type="checkbox"/>
<b>Personal views</b>	<input type="checkbox"/>

### iii) What category do you consider your organisation falls into?

<b>Local planning authority</b>	<input type="checkbox"/>
<b>Housing developer</b>	<input type="checkbox"/>
<b>Community group/representative</b>	<input type="checkbox"/>
<b>Parish council</b>	<input type="checkbox"/>
<b>Business</b>	<input type="checkbox"/>
<b>Planning professional</b>	<input type="checkbox"/>
<b>Landowner</b>	<input type="checkbox"/>
<b>Voluntary sector or charitable organisation</b>	<input checked="" type="checkbox"/>
<b>Other (please state)</b> _____	<input type="checkbox"/>

## The consultation questions

Question A:

**Do you support the principle of the Government's proposal to grant permitted development rights to change use from B1 (business) to C3 (dwelling houses) subject to effective measures being put in place to mitigate the risk of homes being built in unsuitable locations?**

Yes  No

**Please give your reasons:**

The HTF supports measures to ensure that the planning system is sound, positive and flexible to respond to the needs of a rapidly changing world. It also recognises that issues, such as impacts, that justified distinctions between the use classes in the past have become increasingly blurred in recent times. To this extent the change from B1 to C3 is the less contentious of the proposals. However, the HTF does not feel able to give an unequivocal „yes' without further thought being given to the principles and the mitigation issues.

Matters of concern are:

1. For this measure to address the national housing need that is at the heart of the case, the vacant/underused business premises will need to be in the areas of highest housing demand. The experience of the HTF suggests that this is far from always being the case: many historic towns are places with comparatively strong economies and high housing demand (the two are intimately linked, of course).
2. The argument that the changes will help to drive down residential land values to something closer to business land values. The value depends on the return that can be achieved and residential values are likely to remain at premium, especially in areas of high demand.
3. The likely loss of business premises, which will be required if the economy is to grow itself out of the recession. If business premises are lying idle it may be because they are unsuited to modern needs and the incentive should be to upgrade them to bring them back into productive *commercial* use. It may also be that they are vacant as part of normal business cycles and their availability is an essential part of the flexibility the market needs. The proposal will affect fundamentally how we plan for business development and ensure that sufficient allocations, both quantitatively and qualitatively, are available.
4. The proposal may well underestimate that extent of external work that will be required and hence the need to go through a planning process. This could be particularly significant where buildings are in or adjacent to a Conservation Area or affect the setting of a listed structure. This would significantly weaken any deregulation benefits.

Experience shows that for housing to attract purchasers or indeed tenants it has to be:

- appropriately located;
- of good quality design;
- suitable for the needs of the community in terms of size and affordability;
- appropriately serviced with the infrastructure already in place; and
- available in sufficient numbers to meet local demand.

Whilst the HTF appreciates the Government's desire to see more houses built, developers need to provide housing of a type and size that people want and can afford. Addressing the only quantity of housing is tackling just one part of the problem. Indeed, properties already built for commercial use or land allocated for such purpose may well not be suitably located to meet the needs of residents and may not be appropriately serviced. Each site should be examined individually through the recognised planning process.

Given these issues, the HTF is inclined to the view that the proposed measure may well prove to be counterproductive in achieving the objective of simplifying the planning system, lead to confusion and be in the best interests of neither housing nor business development.

Question B:

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

Yes  No

**Please give your reasons:**

See above. In cases of B2 and B8:

1. The external environment is less likely to be suitable for residential development.
2. It is much more likely that external works will be necessary and these will require planning permission thus undermining the flexibility that is being sought.

Question C:

**Do you agree that these proposals should also include a provision which allows land to revert to its previous use within five years of a change?**

Yes  No

**Comments:**

This would encourage short term expediency and very likely the provision of substandard accommodation in a poor environment. At the very least the reversion should require planning consent and would be subject to any LDF policies protecting residential accommodation from changes of use.

Question D:

**Do you think it would be appropriate to extend the current permitted development rights outlined here to allow for more than one flat?**

Yes  No

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

Yes  No

**Comments:**

The first „yes‘ applies only if the Government is determined to go ahead with this proposal, see answer to Question A.

While in most cases it is likely that the capacity will be constrained, there may be instances where a substantial number of units could be created over multiple floors, e.g. in the conversion of old main branch banks in historic towns. This could create concerns over issues such as access and parking that may be unacceptable without proper planning controls. Further work is needed to determine what the upper limit should be, but the upper limit should certainly not exceed the normal definition for major development, i.e. 10 units.

Question E:

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

Yes  No

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

Yes  No

**Please give details:**

The paragraphs that lead up to this question illustrate the risks of the idea and why such a change of use should be dealt with through the planning process. It is fundamentally wrong for other legislation to deal with what are planning issues, e.g. noise in paragraph 46. Numerous Article 4 directions (paragraph 58) are not a solution that will commend itself to many local authorities.

Other issues are:

1. Consideration needs to be given to the balance of location of jobs and houses. If the loss of local employment opportunities and an increase in residential population leads to an increase in commuting this will run counter to the objective of sustainable development.
2. Consider that buildings on land safeguarded for commercial use, such as technology parks, be excluded.
3. Consider that it does not apply at ground floor level in a primary retail area.
4. Consider imposing a maximum floor area for any building where a change of use is proposed.
5. The need for special considerations to cover World Heritage Sites and Conservation Areas

If this change is approved it will be important to see how this affects planning for growth and the preparation of planning policy. At the very least it will be important for such changes of use to be assessed in windfall housing allocations.

The HTF considerers, again, that the proposal creates more problems than answers in the search for sound planning.

Question F:

**Do you think that there is a requirement for mitigation of potential adverse impacts arising from these proposals and for which potential mitigations do you think the potential benefits are likely to exceed the potential costs?**

Yes  No

**Comments:**

I think this question brings out a fundamental flaw in the proposal: if the proposed change needs substantial mitigation to make it acceptable then it probably should not go ahead in the first place. If there are mitigation issues to be addressed this should be done through the proper planning process. It is hard to see the benefits exceeding the costs. See first para to Question E response.

Question G:

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

No. The identification of more mitigation, if that were possible, would only serve to underline the flawed thinking in this proposal.

Question H:

**How, if at all, do you think any of the mitigation options could best be deployed?**

The whole concept of allowing this kind of change is best deployed through flexible, locally sensitive, policies in Local Development Frameworks, not through blunt changes to national guidance.

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:**

Given the uncertainties identified the provision should remain.

Question J:

**Do you consider there is any justification for considering a national policy to allow change of use from C to certain B use classes?**

Yes  No

**Please give your reasons:**

There may be circumstances where this is appropriate, but should be a local matter addressed through the Local Development Framework, see above.

Question K:

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

The HTF believes there is more to providing a sustainable future than economics. There are also social and environmental factors and these have shaped this response.

From the experience of a number of historic towns, it is not always the case that a shortage of land for housing is responsible for the low number of homes currently being built. Recent Strategic Housing Market Assessments show that there is often sufficient land allocated or with permission for housing to last for 5 -15 years using typical house building rates of three or four years ago. In some places there is probably a greater floor area of empty flats and apartments than unused commercial premises.

The issue for would be house purchasers is often the lack of money to buy new homes combined with financial insecurity. Mortgages are hard to come by unless you have a substantial proportion of the purchase price to put down. In addition, the 'buy to let' market has collapsed. Until the UK's financial position gets substantially better that situation will not improve.

Developers have to respect these financial realities. Fundamentally they are only going to build what they can sell profitably whether residential or commercial properties. Ironically, many historic towns need more economic development in order to create jobs so that people can afford to buy new homes. So it would be fundamentally wrong to convert such large numbers of commercial properties to residential that they then in turn become in short supply.

The HTF is concerned that the proposals mean that local residents won't be able to have any input into an appropriate planning application process – this is completely against the spirit of the Localism Bill and attempts to increase people's say over development in their neighbourhoods.

## The impact assessment questions

Question 1:

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

Yes  No

**If not why?**

It captures them, but misinterprets them and comes to the wrong conclusions.

Question 2:

**Are there any significant costs and benefits that we've omitted?**

Yes  No

**If so, please describe including the groups in society affected and your view on the extent of the impact:**

See responses to questions A-K.



Question 3:

**Are the key assumptions used in the analysis in the impact assessment realistic?**

Yes  No

**If not, what do you think would be more appropriate and do you have any evidence to support your view?**

See responses to questions A-K.

Question 4:

**Are there any significant risks or unintended consequences we have not identified?**

Yes  No

**If so please describe:**

See responses to questions A-K.

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?**

Yes  No

**If not, why not?**

See responses to questions A-K.

Question 6:

**Do you think there are any groups disproportionately affected?**

Yes  No

**If so please give details:**

1. Low income groups, who may end up in substandard accommodation.
2. Unemployed people whose potential opportunities for future employment are reduced.

Question 7:

**Do you think this proposal will have any impacts, either positive or negative, in relation to any of the following characteristics – Disability,**

**Gender Reassignment, Pregnancy and Maternity, Race, Religion or belief, Sex, Sexual Orientation and Age?**

Yes ✓

No

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

These groups are more likely to be over represented in the two groups referred to in Q6 above.

Question 8:

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

Not applicable.

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