

CLG Consultation

How change of use is handled in the planning system – tell us what you think: Issues paper

Response from Historic Towns Forum

- 1. Should material change of use continue to be considered as ‘development’ and handled through the planning system? If not what alternative approach might be used?**

Yes. Different uses have different consequences and changes need to be subject to sensible and proportionate management. The consequences may be adverse impacts on amenity and the environment, or changes that work against other policy objectives, e.g. changes of use leading to the loss of housing or local shops. In so far as the changes relate principally to land use issues it is appropriate that they are controlled through the planning process. This form of control helps to ensure that full consideration is given to the balance between supporting growth and ensuring local people have the an effective opportunity to influence their community and environment.

- 2. Is the Use Classes Order an effective deregulatory tool to simplify the approach to managing change of use nationally in the planning system? If not, do you have views on what an alternative deregulatory approach to managing change of use might look like?**

The UCO remains an effective deregulatory tool in that it can reduce the need to go through the full planning process where the impact of development is likely to be acceptable. This is not to say that the UCO as currently structured does not need to revision. There have been very many changes in society since 1972 that have blurred the distinctions between activities within a building and their impacts, e.g. working from home, banks with coffee shops, R&D and high tech activities that operate much like offices. And more broadly there is the shift towards mixed use developments.

- 3. The Use Classes Order and associated permitted development rights currently are a national regime for changes of use without planning applications. However, they can be extended locally to meet local needs through Local Development Orders (and in future, through Neighbourhood Development Orders). Is this model effective and is it sufficiently flexible to meet most circumstances?**

One test of a sound planning system is consistency and simplicity for all users, especially those such as businesses operating across broad geographical areas.

This argues for a national UCO as the basis for managing changes of use. The HTF wishes to emphasise the risk of deregulating changes of use in terms of creating uncertainty and undermining investor and business confidence. The kinds of changes suggested could (and would) damage economic growth.

Local planning authorities have enough to do dealing with things that must be resolved at the local level without having to devise their own UCO. However, there should be opportunities for local discretion where exceptional circumstances justify it and these might appropriately be dealt with through neighbourhood planning. Article 4 directions already allow this local discretion and are a very valuable tool, especially in managing change in Conservation Areas.

4. Do you think that the current classes of use in the Use Classes Order are still appropriate?

The consultation document raises some important questions about the appropriateness of the existing classes to our changing society. It would have been very helpful for the consultation to be accompanied by some robust research probing these issues to help respondees come to a considered judgement. Moreover, this question should have been addressed before the embarking on the precipitate proposals for change referred to in paragraph 14 of the consultation document.

A fundamental issue is perhaps not so much the land use/class as the particular characteristics within a given activity. Thus within local shopping centres there is often strong opposition to the introduction of supermarkets and other retailers operated by national high street chains – the issue is not the use but the operator. Such opposition may not always be justified, but where it is the existing UCO restricts that action that the local planning authority can take. This raises the question of whether the UCO could be made more responsive by introducing size thresholds, which used across mainly the A and B classes could work in favour of small businesses.

5. The current regime seeks to secure a balance between deregulation and protecting the citizen. Has the right balance been struck or should there be more deregulation than currently allowed through the Use Classes Order and permitted development rights?

The current system works well in protecting the citizen against inappropriate development, though see Q4 on retail and size issues.

6. Does the current operation of the Use Classes Order go far enough to remove inappropriate barriers to growth and allow for potential for changes of use that boost growth?

The HTF believes that the UCO is an effective deregulatory tool and strikes the right balance between the needs of both local communities and businesses. Further general deregulation would not be in the interests of sound and proportionate planning. As noted above, The HTF wishes to emphasise the risk of deregulating

changes of use in terms of creating uncertainty and undermining investor and business confidence. The kinds of changes suggested could (and would) damage economic growth. However, the interests of small businesses might be advanced by the careful introduction of size thresholds, see Q4 above.

7. How should ancillary uses be treated within the Use Classes Order?

Generally allowing ancillary uses is good for individuals, businesses and the community. Whether or not control is required will depend on:

- a. the nature of the primary and secondary uses; and*
- b. the scale of the secondary use in relation to the primary one.*

So: child minding two children in a house is normally acceptable, but running nursery may well not be; a sole operator IT consultant operating from a spare room in a house will have minimal impact, but employing three staff in the same house may well cause problems. In most circumstances local authorities should accept ancillary activities, but be prepared to take action where either:

- a. the activity is has unacceptable impacts on amenity and environment; and/or*
- b. the ancillary activity has grown into the predominant use, which should be regularised or terminated – activities within class A, for example, might be regularised; a house being taken over for offices might be terminated.*

8. Are the current permitted development rights relating to the temporary use still appropriate? If not, how do you think they should be amended?

The current arrangements remain appropriate.

9. Should change of use of buildings be allowed on a 'temporary' basis without the need for a planning application?

There is no benefit to communities in having buildings standing empty, nor will they benefit from the introduction of unacceptable temporary uses, especially in residential areas. In both cases the duration of the 'temporary' is important. In response to the questions in the document:

- a. A vacant building use class would be an odd animal, though it would be better than a free for all in which any vacant building could be used for anything.*
- b. Restricting the use in this way seems to confer little benefit and may well be akin to the flexibility already in the UCO.*
- c. No, this must be tested properly through the planning process.*
- d. Potentially, but the enforcement challenge will be greater where changes are unrecorded and unauthorised.*

A way forward might be to establish a simplified 'licensing' system for the use of vacant buildings that would set out the use and length of time without requiring the user to go to the length of making a full planning application.

10. In addition, the review team would welcome any further views or evidence on how the current Use Classes Order and associated permitted development regime is working.

No further comments.

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22nd August 2011

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