THE HOME BUILDERS FEDERATION

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Dear Madam

RELAXATION OF PLANNING RULES FOR CHANGE OF USE FROM COMMERCIAL (B USE CALSSES) TO RESIDENTIAL (C3 USE CLASSES)

Thank you for consulting the Home Builders Federation (HBF) on the above consultation paper. The HBF is the principal representative body of the housebuilding industry in England and Wales and our representations reflect the views of our membership of multinational plc's, through regional developers to small, local builders. Our members account for over 80% of all new housing built in England and Wales in any one year including a high proportion of the existing level of conversions from commercial use to residential use.

We have addressed the questions posed by the consultation below. Overall we are supportive of the thrust of the proposals but believe that they carry with them a considerable number of issues which must be addressed before the changes are introduced.

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?

We support the principle of the proposal since it has the ability to contribute to the increase in housing supply much needed by the Country.

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We believe that the market itself will self regulate the risk of homes being built in "unsuitable" locations as proposals will not be economically viable sue to poor sales values of the completed product.

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?

The principle of change of use is supported. However, it is more unlikely that buildings in such uses will be suitable for such conversion and will, therefore, be less likely to yield significant additional dwellings, particularly in suitable (market friendly) locations.

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?

While the principle of this proposal appears to be pragmatic it raises a number of issues not adequately addressed in the consultation paper.

The first of these is the uncertainty that it would bring to residents of a conversion scheme, particularly where a number of buildings are converted to residential use. Reversion to the previous B1, B2 or B8 use of part of the development (one of two building for example) could have a significant impact on the residential amenity of the remaining residents – an issue that would be properly addressed through the planning application process.

The second relates to the first in that, if it is considered that no such adverse impacts would arise from the above example, then conversion of existing C3 uses should similarly be granted permitted development rights to convert to commercial uses. That this proposal has not been included within the consultation suggests that the government has some concerns that such impacts would be detrimental to existing residents and thus the proposed reversion should not be included.

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?

While supporting in principle the ability to make best use of existing buildings within town centres through their conversion to mixed uses we are unaware of the contribution that the existing permitted development rights has made to the increase in housing supply. The conversion of such buildings to more than one

flat is, if building control and environmental health requirements are to be met, is, therefore, highly unlikely to be possible without substantial works to the existing fabric of the building and will, in any event, require a planning application to be submitted, thereby rendering the permitted development "right" unimplementable.

When assessing the suitability of such alterations the planning authority should, of course, take account of the fact that the building has permitted development rights for the change of use. However, in practice we believe that most planning authorities will take the opportunity of external alterations to allow them to impose other standards required of residential applications such as contributions to open space, meeting parking standards and contributing to affordable housing.

These concerns extend to all of the proposals within the consultation but are most likely to occur with regard to conversions of space above shops and other town centre uses. The government should be very clear in reminding local authorities that where permitted development rights exist the implications of this cannot be taken into account when determining an application which merely seeks to alter the fabric of a building.

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?

We agree with the government that there is a considerable amount of vacant industrial and commercial land and property currently lying vacant and that this is frequently protected by local authorities through planning policy in the vague hope that it will, someday, be returned to economic use.

However, the current proposals do little to address this widespread problem since they propose only the conversion of existing buildings be granted permitted development rights. Thus, proposals to reuse land or to demolish existing commercial buildings to allow the site itself to be used for residential development will still be thwarted through inappropriate local planning policy.

The consultation recognises the importance of creating an environment that is attractive to potential residents of such conversions and we see no problem with this being regulated through the market. Concerns from local authorities are expected to be related more to value capture (such as contributions to affordable housing) than to residential amenity. Issues such as open space provision, parking standards and location are all market factors on which potential purchasers already make choices on all developments. Even local authorities accept that location frequently dictates different levels of amenity provision (such as access to doctors in rural areas, levels of outdoor space in urban areas and parking requirements where alternative transport provision is available).

As identified above, one of the risks not referred to is the assumptions that local authorities may make in assessing the potential yield of additional housing that may arise from this potential source of housing supply. We would suggest that potential conversions through these permitted development rights are excluded from the calculation of a local authority's 5 year housing land supply evidence since they can only be relied upon as contributing to the supply of dwellings when they have been completed. In fact, given the proposal to allow reversion to the previous use within 5 years it would not seem unreasonable to exclude their contribution to the housing supply until this period had passed.

One unintended consequence of the proposed permitted development right relating solely to existing buildings is the potential loss of commercial uses in sustainable locations (near to railway stations, within urban areas etc). In an economic upturn additional commercial floorspace will be forced to use new land, probably on the edge of existing settlements. Such spatial changes to land use would not be the subject of proper environmental impact assessment nor would it necessarily result in the most sustainable patterns of land use.

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?

The fact that the consultation paper raises so many potential problems and lists a wide range of potential mitigation procedures suggests that the issue is both complex and open to doubt as to its desirability.

The introduction of any number of mitigation processes (such as a plethora of Article 4 directions) will negate any of the positive benefits of the proposed permitted development rights.

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

While supporting the general concept of further extending permitted development rights as proposed, it would seem that the best way of dealing with the necessary mitigation described above will remain through the development management process of a formal planning application.

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

If the proposed permitted development rights are to reach their maximum potential there should be few, if any, mitigation options necessary. The fear is that, in order to retain the maximum control over the potential adverse impacts

many local authorities will introduce blanket restrictions over all permitted development rights, either through Article 4 directions or through conditions on new planning permission, thereby rendering the new proposals pointless.

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:

There is no reason to reduce compensation provisions since to do so will add to the problem identified above in response to Question G. Unless local authorities are open to the full financial impact of removal of permitted development rights there is no disincentive to adopt a blanket approach to their removal.

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?

As stated above, if it is considered appropriate to allow change of use from B class uses to C class uses there can be little or no justification in terms of impact on amenity to allowing change of use in the opposite direction.

However, both local planning authorities and developers work hard to establish a coherent community and environment in which to live and potential residents choose to buy into that environment. The introduction of a greater level of uncertainty over the future use of individual properties within that environment is not considered conducive to creating mixed and balanced nor inclusive and coherent communities.

Just as many local authorities wish to control permitted development rights on residential development to maintain the quality of urban design and townscape (through the control of extensions, new windows etc) so too do housebuilders seek to control unneighbourly uses within properties. Thus, many sales contracts contain restrictive covenants limiting the use to which property designed and built for residential use remains in such use. Similarly, many properties will be financed through a residential mortgage rather than a business loan for a commercial property.

We believe, therefore, that while such an extension of the permitted development rights from B classes to C classes may be desirable, it too would raise a huge number of problems requiring its own mitigation and control. The government should assess these impacts and their potential effects before committing to a further extension of permitted development rights.

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

While supportive in principle of the proposed relaxation of planning rules there are many detailed issues over the mitigation of the impact of this proposed change that must be addressed before implementation. Not least of these concerns is the acceptance (or otherwise) or both existing and new communities on the use that existing and new building might be put to in the future. The planning system is, in part, already designed to create certainty for communities and mitigate impacts arising from those future uses. These proposals clearly introduce a level of uncertainty over the future use of buildings, many of which are in established residential areas.

We are also concerned over the cumulative impact of these proposals on the collective infrastructure requirements within an area. This problem has, in part, been addressed through the introduction of Community Infrastructure Levy and Section 106 contributions required to mitigate both direct and strategic impact of additional development. Unfortunately, when permitted development rights are exercised such mitigation is not forthcoming thereby either questioning the validity of CIL and S106 requirements on other development or by simply ignoring the impact of the new use within existing communities. Neither of these potential conclusions is desirable.

Conclusions

HBF recognises the need, and has long campaigned for, a more liberal, flexible and pragmatic approach to reuse of vacant commercial land and buildings. Thus while we are supportive of the proposed extension of permitted development rights we remain concerned over many of the potential impacts of such rights. The issue regarding inappropriate safeguarding of commercial land by local planning authorities will not be affected by the proposed changes which relate solely to existing buildings.

We conclude, therefore, that, although welcome, the proposed changes have limited scope to make more than a small contribution towards the desperate housing shortage we currently face in England and we will continue to need to look at a much wider raft of potential policy solutions to addressing that shortfall.

Yours faithfully

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