

Public Document Pack

Scrutiny Panel A

Thursday, 6th March, 2014
at 5.00 pm

PLEASE NOTE TIME OF MEETING

Conference Room 3, Civic Centre

This meeting is open to the public

Members

Councillor Burke (Chair)
Councillor Claisse (Vice-Chair)
Councillor L Harris
Councillor Lloyd
Councillor McEwing
Councillor Mintoff
Councillor Vinson

Contacts

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PUBLIC INFORMATION

Role of Scrutiny Panel A

The Overview and Scrutiny Management Committee have instructed Scrutiny Panel A to undertake an inquiry into maintaining balanced neighbourhoods through planning.

Purpose:

To review how effectively the City Council's Article 4 and HMOs Supplementary Planning Document is working.

To increase understanding of the various Government proposals to relax permitted development rights, including those relating to extensions, office to residential conversions and changing retail use without consent, and to consider if a local response should be developed.

To consider the Council's approach to planning enforcement.

Southampton City Council's Priorities

- **Economic:** Promoting Southampton and attracting investment; raising ambitions and improving outcomes for children and young people.
- **Social:** Improving health and keeping people safe; helping individuals and communities to work together and help themselves.
- **Environmental:** Encouraging new house building and improving existing homes; making the city more attractive and sustainable.
- **One Council:** Developing an engaged, skilled and motivated workforce; implementing better ways of working to manage reduced budgets and increased demand.

Public Representations

At the discretion of the Chair, members of the public may address the meeting about any report on the agenda for the meeting in which they have a relevant interest.

Smoking policy – the Council operates a no-smoking policy in all civic buildings.

Mobile Telephones – please turn off your mobile telephone whilst in the meeting.

Fire Procedure – in the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

Access – access is available for the disabled. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

Dates of Meetings: Municipal Year

2013	2014
28 th November	9 th January
	6 th February
	6 th March
	3 rd April
	8 th May

CONDUCT OF MEETING

TERMS OF REFERENCE

The general role and terms of reference of the Overview and Scrutiny Management Committee, together with those for all Scrutiny Panels, are set out in Part 2 (Article 6) of the Council's Constitution, and their particular roles are set out in Part 4 (Overview and Scrutiny Procedure Rules – paragraph 5) of the Constitution.

BUSINESS TO BE DISCUSSED

Only those items listed on the attached agenda may be considered at this meeting.

RULES OF PROCEDURE

The meeting is governed by the Council Procedure Rules and the Overview and Scrutiny Procedure Rules as set out in Part 4 of the Constitution.

QUORUM

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

DISCLOSURE OF INTERESTS

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

DISCLOSABLE PECUNIARY INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

(iv) Any beneficial interest in land which is within the area of Southampton.

(v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

(vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

(vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

- a) the total nominal value for the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or

- b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

Other Interests

A Member must regard himself or herself as having an 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

AGENDA

Agendas and papers are now available via the City Council's website

1 APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)

To note any changes in membership of the Panel made in accordance with Council Procedure Rule 4.3.

2 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Democratic Support Officer.

3 DECLARATIONS OF SCRUTINY INTEREST

Members are invited to declare any prior participation in any decision taken by a Committee, Sub-Committee, or Panel of the Council on the agenda and being scrutinised at this meeting.

4 DECLARATION OF PARTY POLITICAL WHIP

Members are invited to declare the application of any party political whip on any matter on the agenda and being scrutinised at this meeting.

5 STATEMENT FROM THE CHAIR

6 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)

To approve and sign as a correct record the Minutes of the Inquiry Meeting held on 9th January, 2014, attached

7 PERMITTED DEVELOPMENT RIGHTS

Report of the Assistant Chief Executive with a focus on increasing understanding of the various Government proposals to relax permitted development rights, attached

Wednesday, 26 February 2014

HEAD OF LEGAL AND DEMOCRATIC SERVICES

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SCRUTINY PANEL A

MINUTES OF THE MEETING HELD ON 9 JANUARY 2014

Present: Councillors Burke (Chair), Claisse (Vice-Chair), L Harris, Lloyd, McEwing, Mintoff and Vinson

COUNCILLOR CLAISSE IN THE CHAIR

4. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

RESOLVED that the minutes of the Scrutiny Panel held on 28th November, 2013 be approved as a correct record.

5. **ARTICLE 4 AND HMO SUPPLEMENTARY PLANNING DOCUMENT**

The Panel considered the report of the Assistant Chief Executive relating to the Council's Article 4 and Houses in Multiple Occupation Supplementary Planning Document (HMO SPD).

Janet Hawkins gave an overview of the HMO licensing schemes in the City. She indicated that the purposes of the schemes were to improve the quality of the HMOs for the occupiers and also to improve matters for the local communities.

The team had a good working relationship with Legal Services and Planning.

The scheme details had been presented and discussed at the Landlord Consultative Forum and they were in the process of organising a Stakeholders Forum.

The scheme only covered part of the City and they would be looking at possibly increasing this in the future.

Chris Lyons outlined the HMO SPD. He stated that it was only a guidance document. He gave details of specific points with regards to the spread of HMOs, demand and limits within areas and how the radius works.

He stated that if it was decided that the SPD needed to be changed it was important that it was clear on what was acceptable for future purchasers, planners and local residents.

It was noted that there was no income generated from HMO applications.

Questions were asked why there were currently two tiers for the percentage of HMOs in different areas. Discussion also took place concerning recent applications that the Planning Committee members have decided to reject and therefore go against the officer recommendation for approval, in line with the SPD.

Various stakeholders were in attendance and presented their main points relating to HMOs.

Highfield Residents' Association (HRA). Information was attached to the papers at Appendix 3 and further information was circulated at the meeting together with a response from the East Bassett Residents' Association:-

- Need for residents to have a commitment to the City.
- Pleased that there was an intention to take enforcement action against those landlords that do not licence their HMOs.
- Need to consider the quality of life for existing residents.
- If the 10% threshold had been reached then no new ones should be created.
- If more HMOs were to be allowed Southampton would become a transient city.
- More purpose built accommodation for students however, there were still high levels of students living in HMOs.
- Felt that temporary stop orders could be used.
- Hoping that as staffing levels had been addressed that the backlog of enforcement could be resolved.

Following on from the points raised by the HRA the following comments were made:-

- The Residents Action Group in Polygon stated that 10% and 20% levels were very low. They live in an area with almost 100% and this causes many problems.
- Many cases were resolved without the need to issue enforcement notices.
- Each of the 3 officers deals with approximately 40-50 cases at a time.
- Need figures showing numbers of HMOs per ward.
- Need to be aware of the different issues relating to HMOs and HMO student accommodation.
- It was questioned whether it would be legal to have a different policy for HMO student accommodation as opposed to HMOs for other types of residents.

Southern Landlords Association. Information was circulated at the meeting:-

- Understood that the introduction of SPD was to spread the number of HMOs across the City.
- With current earning levels demand for HMO accommodation would increase.
- Concerns about the low increase in the number of HMOs in the City over the last year.
- SPD has effectively stopped any new HMOs.
- Concerns that applications supported by officers in line with policy were then refused at Planning Committee and have also been dismissed at appeal on grounds that were not set out as part of the policy.
- Need a solution to meet the aims of the SPD or change the aims.
- Comparisons were made about areas with different levels of HMOs and the impact that it had on the house prices in the area and where the "tipping" point was.
- Their view was that students often did not want to remain within purpose built accommodation after their first year.
- Need for affordable housing for people in the City, not just for students.
- Need for good landlords that provide good HMOs.
- Registration scheme should improve the situation.

National Landlords Association. Information was circulated at the meeting:-

- SPD has not delivered its aims.
- HMOs were needed by certain parts of the population and always would be.

- Policy often not followed so not clear for landlords.
- In areas where HMOs were restricted, student accommodation has been allowed. Many of the issues relating to HMOs are directly linked with students and these issues would also be present in purpose built accommodation.
- Suggested that the policy be removed completely as it had failed or clarify standards in each ward and give details of current numbers already in areas.

Following on from the points raised by the Landlords' Associations the following comments were made:-

- That bad landlords exploit the rules, however it was felt that many of the issues would be addressed once the licensing scheme was fully in place.
- Information was given relating to students and Council Tax and what was claimed backed from Central Government.
- There was discussion as to whether it was agreed about students not wanting to remain in halls after their first year.
- Questions were asked why HMO applications were not received for wards on the east of the City. It was felt that there was no demand in these areas by working residents wanting these areas and they were too far from the educational establishments for students.
- Suggestion that the Landlords' Associations and the Residents' Associations met. Working together would be a better way to resolve issues.
- Issue of the visual impact of some areas that were not maintained. Need to place some of the responsibility with the landlords.
- It had been predicted that due to the changes in benefits there would be a need for more HMOs but it was felt that nothing had changed. And that the focus always seemed to be on student HMOs.

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Agenda Item 7

DECISION-MAKER:	SCRUTINY PANEL A		
SUBJECT:	PERMITTED DEVELOPMENT RIGHTS		
DATE OF DECISION:	6 th MARCH 2014		
REPORT OF:	ASSISTANT CHIEF EXECUTIVE		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Mark Pirnie	Tel: 023 8083 3886
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STATEMENT OF CONFIDENTIALITY

None

BRIEF SUMMARY

For the fourth meeting of the 'Maintaining balanced neighbourhoods through planning review' the Panel will focus on increasing understanding of the various Government proposals to relax permitted development rights.

Appended to this report is a Southampton perspective of the office to residential conversion and the residential properties permitted development rights, and a national perspective of the office to residential conversion permitted development right. In addition a written statement from the Planning Minister, delivered in February 2014, is attached to develop understanding of the Governments approach.

RECOMMENDATION:

- (i) The Panel is recommended to consider the comments made by the invited representatives, and the written information presented to the Panel, and use the information provided as evidence in the review.

REASON FOR REPORT RECOMMENDATIONS

1. To enable the Panel to compile a file of evidence in order to formulate findings and recommendations at the end of the review process.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

2. None.

DETAIL (Including consultation carried out)

3. On 30 May 2013 a raft of amendments to permitted development and change of use came into effect, lasting for 3 years. The two main changes are:
 - The change of use of office to residential use
 - Increasing the size limits for single storey domestic extensions and conservatories.

Office to Residential Use

4. In May 2013, the coalition government amended legislation to allow for offices to convert to homes without having to apply for full planning permission. The policy goal was to make it easier to convert redundant, empty and under-used office space into new homes, promoting brownfield regeneration, increasing footfall in town centres and boosting housing supply. There are 33 areas in 17 local authorities that are exempt, mainly in inner London.
5. Attached as Appendix 1 is an overview, prepared by Dr Chris Lyons, Southampton City Council's Planning and Development Manager, of the impact to date the policy has had on Southampton.
6. Attached as Appendix 2 is a written ministerial statement from February 2014 by Planning Minister, Nick Boles. The statement outlines the Government's position with regards to the use by local authorities of Article 4 Directions to remove the permitted development right, currently applied for by 8 local authorities (as at 14th February 2014).
7. Appendix 3 is an update on the national position relating to office to residential use from GVA, UK property consultants and commercial property management experts based in Manchester.

Permitted development rights for residential properties

8. The Government introduced additional permitted development rights for residential properties, allowing, with some exceptions, extensions of between 4m and 8m for detached houses and between 3m and 6m for all other houses.
9. The overview for Southampton, attached as Appendix1, includes an update on the impact this policy has had on the City.

Housing Needs

10. At previous meetings of this review a number of issues have been raised related to housing needs within Southampton. To help clarify the position, attached as Appendix 4 is a brief position statement relating to housing needs prepared by Liz Slater, Southampton City Council's Housing Needs Manager.

RESOURCE IMPLICATIONS

Capital/Revenue

11. None.

Property/Other

12. None.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

13. The duty to undertake overview and scrutiny is set out in Part 1A Section 9 of

the Local Government Act 2000.

Other Legal Implications:

14. None

POLICY FRAMEWORK IMPLICATIONS

15. None

KEY DECISION? No

WARDS/COMMUNITIES AFFECTED:	None directly as a result of this report
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SUPPORTING DOCUMENTATION

Appendices

1.	Southampton Overview of Permitted Development Rights
2	Written Ministerial Statement by Planning Minister
3.	National Overview of Office to Residential Conversions - GVA
4.	HMOs – Housing Need in Southampton

Documents In Members' Rooms

1.	None
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Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	Dependent upon forward plan item
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Other Background Documents

Equality Impact Assessment and Other Background documents available for inspection at:

Title of Background Paper(s) Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	None	
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Overview of Permitted Development Rights

Office Permitted Development Rights

On May 30th 2013 the Government introduced permitted development rights to convert offices into residential use. These rights last for 3 years.

In the first 9 months the Council has been notified of 33 proposals under these rights. 16 of these are in the city centre and total a loss of 20,000 sq m of offices.

The key city centre sites (loss greater than 1,000 sq m) are:

	No. dwellings	Offices lost (Sq M)
Richmond House Terminus Terrace	74	6,140
Orchard House, 51 – 56 Commercial Rd	25	1,982
Capella House Cook St	27	1,623
Queens Gate 15 – 19 Queens Terrace	64 student	1,600
Portcullis House Platform Rd	36	1,770
114 – 122 Above Bar St	11	1,398
70 – 72 London Rd	21	1,500

These premises are general older lower quality properties. It is likely the conversion of many of these sites would have been supported had planning permission been required. (They are either outside or in the intermediate office safeguarding area. The 3 sites in the prime area are generally older properties).

In addition Brunswick House has received planning permission for conversion to student accommodation.

There is some evidence that there was an initial 'spike' of major applications in response to this temporary measure. Of the 20,000 sq m loss, 90% relates to applications received within the first 3 months of the new pd rights. This will need ongoing monitoring. The loss of 20,000 sq m can be seen in the following context. They are:

- 43% of the city centre office losses assumed by the Core Strategy Partial Review (2013 – 2026).
- 7% of the total city centre office stock.
- 49% of current city centre vacancies. Jones Lang LaSalle's Southampton office have been analysing the effect and comment:

“Whilst it seems that so far it is only the poorer quality buildings that are being put forward for residential, such an unprecedented and dramatic decrease in

supply could have serious implications for the long term health of the local economy.” (Jason Webb, Director. Press release in Sept 2014).

Background

Core Strategy Partial Review

The target for offices (2006 – 2026) is:

New build:	165,000 sq m
Loss:	55,000 sq m (47,000 sq m post 2013)
Net Gain:	110,000 sq m.

The 47,000 sq m future loss is equivalent to converting all the current city centre office vacancies (40,600 sq m) and more. It also broadly equates to the CCAP policy which assumes 0% loss in prime areas and 50% loss in intermediate areas.

The rate of loss (2013 – 2026) is 3,600 sq m per annum. This is towards the high end of past losses:

1996 – 2013: 3,900 sq m p.a. (with high losses 1996 – 2001).

2001 – 2013: 1,830 sq m p.a.

PUSH DTZ assumption: 1,725 sq m p.a.
(National average. Southampton has more older stock).

City Centre Vacancies

Current office vacancies = 40,600 sq m or 15% of total city centre stock.

This is a decline from 17% last year, with a slightly greater decline in the prime areas.

The Dukes Keep area and Charlotte Place block have vacancies significantly above the average.

In the 2000s period of economic growth city wide office vacancies were in the region of 5% - 10%.

Permitted development rights for residential properties

The Government introduced additional permitted development rights for residential properties, subject to a neighbour consultations scheme. This is currently in force between 30th May 2013 and 30th May 2016 and allows for extensions of between 4m and 8m for detached houses and between 3m and 6m for all other houses. There are other limitations on these, such as, a single story rear extension cannot exceed 4m in height, no more than half of the garden can be covered, etc. The process is set out below:

1. A homeowner wishing to build a larger single-storey rear extension must notify the local planning authority and provide:
 - a. a written description of the proposal which includes the length that the extension extends beyond the rear wall of the original house, the height at the eaves and the height at the highest point of the extension;
 - b. a plan of the site, showing the proposed development
 - c. the addresses of any adjoining properties, including at the rear
 - d. a contact address for the developer and an email address if the developer is happy to receive correspondence by email.

There is no fee in connection with this process.

2. The local authority may ask for further information if it needs it to make a decision about the impact of the development on the amenity of adjoining properties.
3. The local authority will serve a notice on adjoining owners or occupiers, i.e. those who share a boundary, including to the rear. This will give the address of the proposed development and describe it, including the information in 1(a) above. It will also set out
 - a. when the application was received, and when the 42-day determination period ends
 - b. how long neighbours have to make objections (which must be a minimum of 21 days), and the date by which these must be received

A copy of this notice must also be sent to the developer.

4. If any adjoining neighbour raises an objection within the 21-day period, the local authority will take this into account and make a decision about whether the impact on the amenity of all adjoining properties is acceptable. No other issues will be considered.
5. The development can go ahead if the local authority notifies the developer in writing either:
 - a. that as no objections were received from adjoining neighbours it has not been necessary to consider the impact on amenity, or
 - b. that following consideration, it has decided that the effect on the amenity of adjoining properties is acceptable.
6. If the local authority does not notify the developer of its decision within the 42-day determination period, the development may go ahead.
7. If approval is refused, the developer may appeal.

8. The extension must be built in accordance with the details approved by the local authority (or, if no objections were raised or the local authority has not notified the developer of its decision, the details submitted), unless the local authority agrees any changes in writing.
9. The development must accord with all other relevant limitations and conditions which apply to other rear extensions allowed under permitted development. These are set out in Class A, and include for example, the requirement that the extension (apart from a conservatory) must be constructed using materials of a similar appearance to those used in the construction of the rest of the house.
10. To benefit from these permitted development rights, the extension must be completed on or before 30 May 2016. The developer must notify the local authority in writing of the date of completion.

Since the scheme came into force, Southampton has received 44 applications under the consultation scheme. Only 3 received objections (4 are still under consideration)

Written Ministerial Statement by Planning Minister Nick Boles on change of use to provide new homes - Delivered on 6 February 2014

In May 2013, the coalition government amended legislation to allow for offices to convert to homes without having to apply for full planning permission. The policy goal was to make it easier to convert redundant, empty and under-used office space into new homes, promoting brownfield regeneration, increasing footfall in town centres and boosting housing supply.

Providing new homes

These new flexibilities have been well received by the housing industry and are helping to bring forward much needed new homes across England. A recent survey by Estates Gazette (10 January) has found that there were more than 2,250 applications for change of use from office to residential in the first 6 months since this change was introduced.

Some of these developments are, in themselves, each set to deliver more than 100 homes. By making efficient use of existing buildings, we are helping to tackle the housing shortage across England whilst simultaneously creating jobs in the construction and services industries. The significant take-up is good news.

Need for certainty

Unlike other permitted development rights, and recognising that this new national right could affect areas differently, we offered local authorities the opportunity to seek an exemption where they could demonstrate an adverse economic impact. All requests for exemption underwent a robust and thorough assessment. In total, 33 areas were exempt in 17 local authorities. We kept in place a light-touch “prior approval” process, to allow any transport, contamination and flooding issues to be addressed by councils; under a “prior approval” process, councils can still refuse the application, on these set grounds.

The specific secondary legislation was laid and scrutinised through the appropriate Parliamentary processes. The London Borough of Islington, and others, recently challenged this exemption process in the courts. However, their claims were dismissed by the High Court and have not been appealed.

Disproportionate use of Article 4

With permitted development rights, there may be unique circumstances where a local authority deems it appropriate to remove a national right by using what is known as an Article 4 direction.

To ensure these powers are used appropriately, local authorities are required to notify my department whenever they make a direction. This is different from the regime under the last administration where Secretary of State’s express approval was required for most Article 4 directions; now the Secretary of State has a reserve

power. Importantly, the office to residential process operates differently from other permitted development rights, given the exemption process.

I am now aware of 8 local authorities who have made directions which prevent office to home conversions under national rights. These directions vary in extent, some apply to entire local authority areas and others are targeted at specific sites.

Having reflected on the reasoned justification presented by each authority for their Article 4 direction, and given the special exemption process which had already taken place, it is considered that the London Borough of Islington and Broxbourne Borough Council have applied their directions disproportionately.

My department is therefore writing to these authorities to request that they consider reducing the extent of their directions so that they are more targeted. This will ensure that offices which should legitimately benefit from this national right can do so. Ministers are minded to cancel Article 4 directions which seek to re-impose unjustified or blanket regulation, given the clearly stated public policy goal of liberalising the planning rules and helping provide more homes.

Avoiding unjustified levies on the new homes

We are also aware that some local authorities may be unclear on the correct intention of the detail provisions of national legislation for office to home conversions. In some instances, authorities do not appear to have applied the correctly intended tests to determine applications for prior approval and have sought to levy developer contributions where they are not appropriate (on matters unrelated to the prior approval process). To ensure the permitted development rights are utilised fairly across England, my department will update our planning practice guidance to councils to provide greater clarity on these points. Unjustified state levies should not be applied in any attempt to frustrate the creation of new homes.

Conclusion

These practical planning reforms are providing badly needed new homes on brownfield sites, close to urban locations and transport links, at no cost to the taxpayer.

Yet a small minority of town halls are trying to undermine these reforms, not least, since they are unable to hit such builders with state levies or since they may have an irrational objection to more private housing. Yet, these conversions coming forward will help offer competitively priced properties, accessible to hard-working people. Moreover, those who seek to oppose these changes need to spell out exactly where they think new homes should go instead given the pressing demand for housing and the need to protect England's beautiful countryside.

Ministers wish to send a clear message to the housing industry that we will act to provide certainty, confidence and clarity, and that we are supporting their investment in these new homes to bring under-used property back into productive use as housing.

Client briefing

Office to resi

An update



The coalition government amended legislation in May 2013 to allow for offices to convert to homes using a process of prior approval rather than an express need for full planning permission.

This was subject to a number of significant qualifications, including:

- the rights only apply to buildings used as an office immediately before 30 May 2013 or, if vacant, where its last use was as an office - as such vacant new offices are excluded;
- only B1(a) offices can be converted, not office units within A2 financial or professional services nor B1(b) or (c) offices i.e research and development or light industry respectively;
- listed buildings and scheduled ancient monuments are excluded; and

- associated external physical development may still require planning permission

An Estates Gazette survey (10/01/2014) found that there had been more than 2,250 applications for change of use from office to residential in the first six months since this change was introduced, but it was also revealed by Planning Magazine (30/07/13) that the government received 1,387 requests for exemptions from 165 councils, including Manchester City Council.

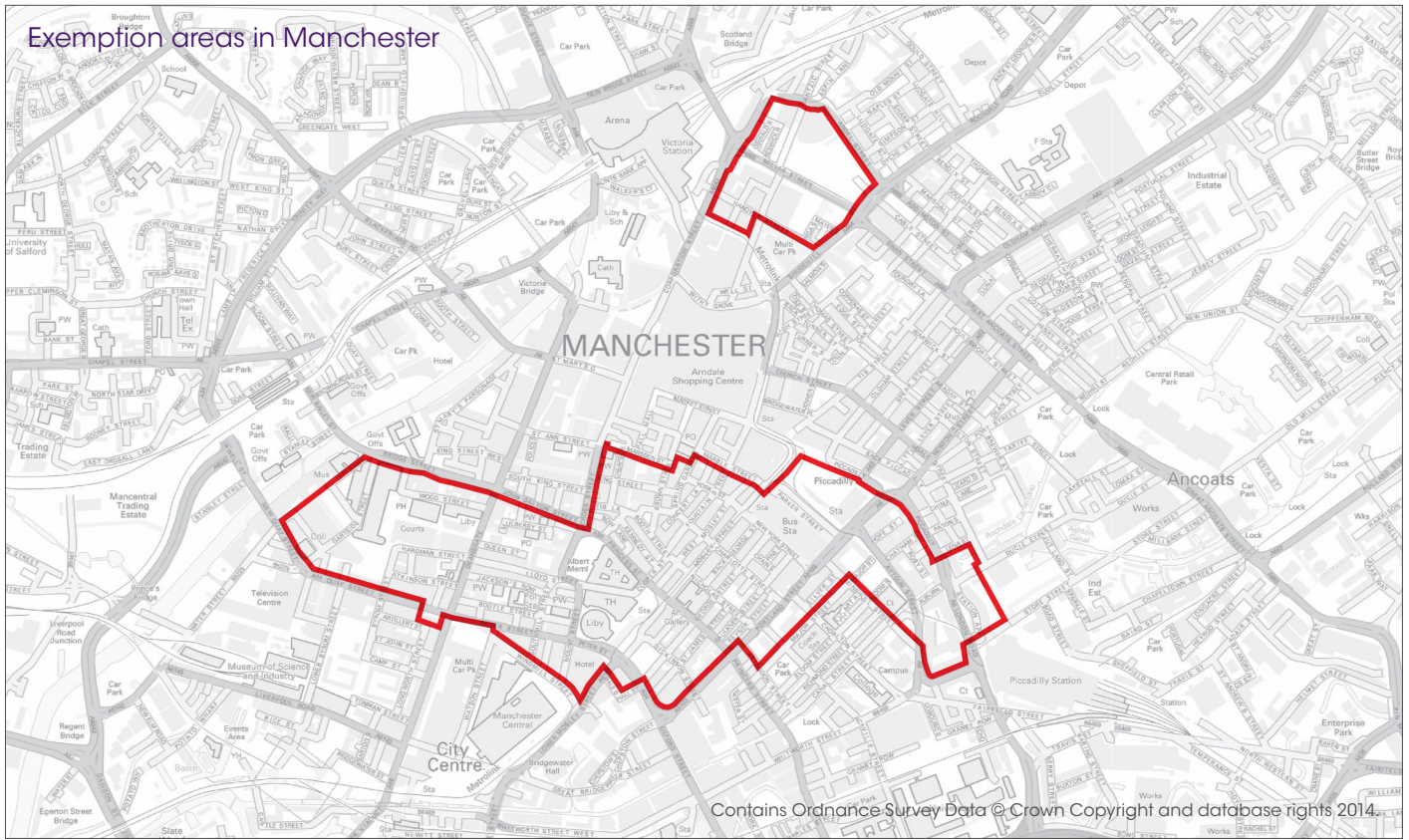
This is a policy that divides opinion. Critics say that it threatens the availability of commercial premises at a time when local authorities should be promoting enterprise. Supporters say that it promotes brownfield regeneration, increases town centre footfall and boosts the supply of housing supply. As the anniversary of this initiative approaches this update considers the issues that have arisen since its introduction.

The issues

Reasons for refusal

It was the government's intention that prior approval of the local planning authority (LPA) is required in relation to flooding, highways and contamination matters only. The LPA has 56 days from receipt of the application to confirm whether further details in relation to these matters is required, failing which development may proceed.

Camden Council has, it is understood, received legal advice that indicates that the Council is entitled to look at considerations beyond flooding, highways and contamination. Reliance is being placed on a sub provision that states that LPAs have to have regard to the NPPF "as if the application were a planning application". In at least one instance Camden has refused a prior notification request and issued a decision notice that goes beyond the matters intended by Government.



Challenge to exemption areas

Recognising that this new national right could affect areas differently, provision was made for rights not to apply to buildings in an 'exemption area' (there are two in Manchester). As stated above, many LPAs sought exemptions on the basis of an adverse economic impact and 33 'exemption areas' were identified across 17 local authorities. Lambeth and Islington mounted legal challenges to the government's refusal of their applications for exemption status, but their claims were dismissed by the High Court in December and have not been appealed.

Article 4 directions

A LPA is able to remove a national permitted development right by using what is known as an Article 4 direction.

Eight local authorities have notified the Secretary of State, who has reserve power, of an intention to make an Article 4 direction. In six cases (Brighton & Hove, Richmond, Sutton, Harrogate, Epsom & Ewell and Watford) these directions apply to specific sites, but Islington and Broxbourne have sought to apply exemptions to their entire local authority areas and Planning Minister Nick Boles confirmed recently that in doing so they were acting 'disproportionately' and would be written to with a request to consider more targeted directions.

Two other authorities, Merton and Bromley, have published directions that have yet to be considered by DCLG. Camden is said it is drawing up an order.

Unjustified levies

Some LPAs have sought to levy developer contributions on matters unrelated to the prior approval process.

Summary

The number of requests for exemptions was an indication of the level of resistance to this policy so the fact that some LPAs have sought to obstruct its implementation should have been anticipated.

It is equally clear though that the government remains committed to it and Nick Boles has confirmed that revised practice guidance will be forthcoming covering the use of Article 4 directions and developer contributions. Clarity on reasons for refusal should also be expected.

The ability to convert buildings in this way is a temporary relaxation that, unless extended, will expire on 30 May 2016, but for the owners of buildings that meet the main qualifications and can be converted without detriment to flooding, highways and contamination, it should be a genuine option for future use.

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HMOs – Housing Need in Southampton

Some broad context information on Housing Need in Southampton

- 17% of households in the city live in social housing
- City council still has 17,500 council homes
- Larger than average number of private rented homes
- Lower than average number of owner occupiers
- Around 7,000 Houses in Multiple Occupation
- For 1 bed starter home, income needed is £26k
- For 2 bed starter home, income needed is £34k
- Southampton median gross pay £20k
- 14,000 households on housing waiting list
- Half are waiting for one beds
- 80 new applications made a week

The need for single person accommodation

The numbers of single people (and couples) needing social housing has increased significantly over recent years. The reasons for this are multiple but include changes to family composition in the population as a whole, the cost of owner occupation being prohibitive for many, and also changes to welfare benefit payments including housing costs. The housing option for many first time householders who are working single people, is now a room in a shared house or flat share.

Local Housing Allowance

In January 2012 the age threshold for the shared accommodation rate of Local Housing Allowance was increased from 25 to 35 years of age. This means that single benefit claimants up to the of age of 35 have a limit on the assistance they receive for housing costs (LHA) based on a room in a shared property, rather than prior to January 2012 when those over 25 would have the LHA for a self contained one bedroom property. At the current time the LHA for room in a shared property is £64.62 compared to the one bedroom LHA of £115.38. This change does not apply to tenants of council or housing association property and explains the increase in demand for one bedroom social housing and the need for shared accommodation the majority of which would be within HMOs.

Housing Register

The council currently operates a waiting list for households in need of social housing in the city. This is a single combined list for the letting of council owned homes and most of the Housing Associations who have stock in Southampton. This makes the list a single access point for letting social housing and represents a good indicator of the housing needs of the residents in Southampton.

There are, as of January 2014, 13,712 active applicants on the Housing Register. Of these, 2,346 are SCC tenants waiting to move to alternative social rented accommodation – the rest are either first time applicants or Housing Association tenants waiting to move to alternative social rented housing.

Of the 13,712:

2,351 are waiting for supported accommodation for older people – 50+ / 55+ / 60+ ('sheltered accommodation')

5,828 are waiting for one-bedroom accommodation

3,111 are waiting for two-bedroom accommodation

1,858 are waiting for three-bedroom accommodation

497 are waiting for a four-bedroom accommodation

67 are waiting for a 5+ bedroom accommodation

The number of vacancies available to let is typically around 1300 to 1500 each year. The variation in available lets is due to property not being available to let due to property refurbishment, and the reductions in the numbers of new property being built. The figures below give an indication of the number of households re-housed from the waiting list during 2011 for general needs properties and how the gap in numbers of people housed compared to those needing homes.

We are currently in a period of major changes to welfare benefits, including the Spare Room subsidy, benefit caps, and the introduction of Universal Credit. It is difficult to predict how these changes will impact on future housing needs, but it is likely the demand for affordable housing will continue to outpace the supply of affordable homes.

Liz Slater
Housing Needs Manager
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