

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.