

# CHANGES TO PERMITTED DEVELOPMENT RIGHTS FOR OFFICES AND SINGLE STOREY REAR EXTENSIONS

<b>Cabinet Member(s)</b>	Councillor Keith Burrows
<b>Cabinet Portfolio(s)</b>	Planning, Transportation and Recycling
<b>Officer Contact(s)</b>	James Rodger, Residents Services
<b>Papers with report</b>	Copy of consultation response sent by the London Borough of Hillingdon and plans which identify key employment and town centre locations to which exemption status would be sought, as recommended in the report.

## 1. HEADLINE INFORMATION

<b>Purpose of report</b>	This report concerns changes to permitted development rights being considered/introduced by Central Government where very short deadlines have been given to councils to respond. In the case of the consultation for single storey rear extensions (where the Government is proposing to relax the restrictions on the depth of single storey rear extensions) officers had to issue a response prior to consideration by Cabinet in order to meet the Government imposed time-scales. The report advises Cabinet of the response issued by officers in conjunction with the Leader of the Council and Cabinet Member for Planning, Transportation and Recycling. With respect to the permitted development rights change from commercial to residential use this is not a consultation. The Government announced on the 24 <sup>th</sup> January 2013 that councils have until 22 <sup>nd</sup> February 2013 to identify 'exemption areas' to new permitted development right changes that would allow B1 office space to change to residential use without the need for a planning application. The report discusses the implications of this and recommends how the Council should respond to the 22 <sup>nd</sup> February deadline.
<b>Contribution to our plans and strategies</b>	The recommendations will assist the planning process to realise the objectives of the Sustainable Community Strategy.
<b>Financial Cost</b>	There could be major impacts on the Borough's existing office space from a relaxation in planning controls. These impacts relate not only to business rates but the viability and vitality of Hillingdon's industrial areas and town centres. The impacts would affect the existing office space and the likelihood of achieving the projected growth of 6,400 office jobs projected by the GLA for Hillingdon over the period 2011-2026. The removal of the requirement for planning applications would also adversely impact on S106/CIL monies.

<b>Relevant Policy Overview Committee</b>	Residents' and Environmental Services
<b>Ward(s) affected</b>	All.

**RECOMMENDATIONS:**

**That the Cabinet:**

- 1. Endorses the officer response already issued concerning the consultation on permitted development rights for single storey rear extensions.**
- 2. Delegate authority to officers to seek 'exemption status' for all those sites listed in Appendix 2 of this report through appropriately worded submissions to the Government.**

**INFORMATION**

**Reasons for recommendation**

Officers issued a response prior to the Cabinet deadline to the consultation on the relaxation of permitted development rights for single rear extensions in order that a response was sent within the short timescale given by the DCLG (Department for Communities and Local Government). It should be noted that the DCLG's own guidelines say that where possible consultation should be for 12 weeks on legislative changes. In this case there was a 4 week consultation only. The consultation response covered the various issues of concern that would arise if neighbours were allowed to do 8m deep extensions on detached houses and 6m deep extensions on other properties without the need for planning permission (existing thresholds are 4m and 3m respectively), with particular emphasis on the impact on neighbouring occupiers. Officers also raised serious doubts that other legislation such as the Party Wall Act would in any way mitigate the impact of an 8m deep extension running along the length of a neighbour's property boundary.

With respect to the permitted development rights change from commercial to residential use this is not a consultation. It is considered that the Council should seek exemption status for all parts of the Borough identified in the Hillingdon Local Plan :Part 1 Strategic policies (Adopted November 2012) as either growth areas, locations for employment growth or areas proposed for town centre improvements. Put simply these areas cover all the parts of the Borough where the Council has indicated it wishes to stimulate employment growth. It is considered that the un-planned conversion of potentially large amounts of office space to residential use would undermine the adopted plan policies with associated adverse impacts on the local economy.

**Alternative options considered**

- (i) The Council could decide not to apply for any exemption areas. Such an option would, however, undermine the Council's Local Plan Part 1 Strategic Policies and would result in an adverse economic impact on the Borough.

(ii). The Council could seek exemption status for the whole of Hillingdon. Officers understand that DCLG officials are likely to refuse such an exemption area. The implications of this are that Hillingdon would then end up with no part of the Borough having exemption status.

### **Comments of Policy Overview Committee(s)**

None at this stage.

## **3. INFORMATION**

### **Supporting Information (Consultation on single storey rear extensions)**

- 3.1 The Government is proposing changes to permitted development (PD) in 5 areas:
- increasing the PD limits for the depth of single-storey domestic extensions from 4m to 8m (for detached houses) and from 3m to 6m (for all other houses), in non-protected areas, for a period of three years. No changes are proposed for extensions of more than one storey.
  - increasing the PD size limits for extensions to shop and professional/financial services establishments to 100 sq m and allowing the building of these extensions up to the boundary of the property (except where the boundary is with a residential property), in Non - protected areas, for a period of three years.
  - increasing the PD size limits for extensions to offices to 100 sq m, in non-protected areas, for a period of three years.
  - increasing the size limits for new industrial buildings within the curtilage of existing industrial premises to 200 sq m, in non-protected areas, for a period of three years.
  - removing some prior approval requirements for the installation of broadband infrastructure for a period of five years.

Note: Non-protected areas in the above context are virtually all of Hillingdon.

- 3.2 The officer response is attached as Appendix 1 to this report. For single storey rear extensions the impact on both the adjoining properties and the extended house are considered excessive in terms of the proposal itself and in conjunction with existing PD rights for outbuildings by;
- Creating an overbearing relationship and a loss of outlook and light to adjoining homes. This includes creating properties with rooms that do not benefit from natural daylight, which is both un-sustainable and not conducive to good living conditions.
  - Reducing the remaining 'garden' area in terms of its use and appearance that would also be contrary to the Government's expressed concern about the effects of 'garden grabbing' on local character.
  - Significantly increasing water run-off and reducing soft landscaping.
  - Allowing for enlarged extensions and 'pd' outbuildings would encourage building over much of the rear gardens of the typical smaller house types and plot sizes seen in large geographic areas of the Borough.
- 3.3 With regard to the relaxation of permitted development for extensions to commercial development in addition to the neighbour impacts (and various other concerns), the following key concern was highlighted:
- A common outcome for the common shop/business unit with rear service access would be the loss of the rear yard for parking, servicing and refuse storage. Many commercial properties are located on important distributor roads. It would seem at odds with the objective of the proposed change to encourage one business to act in a way that will

impact on other businesses in terms of local congestion and adverse impacts on pedestrian and highway safety.

### **Supporting Information (Changes to permitted development rights for offices to residential use)**

- 3.4 The Government has given local authorities until 22<sup>nd</sup> February to submit areas they wish to be exempt from new regulations shortly to come into force allowing conversion of office floorspace to residential use without the need for planning permission. The two criteria exemption areas should seek to meet are:
- (i) The loss of a nationally significant area of economic activity or;
  - (ii) Substantial adverse economic consequences at the local authority level which are not offset by the positive benefits the new rights would bring.
- 3.5 The Mayors London Plan is a nationally significant spatial development strategy. It emphasises the importance of London's suburbs to the economic success of London. Hillingdon's strategic policies accord with those of the Mayors London plan (at the time of writing this was already the view point of the West London Alliance) are similar to those of the other outer London boroughs where the emphasis is moving away from being commuter suburbs and supporting local employment generation. There is therefore a strong argument that collectively London's suburbs are a nationally significant area of economic activity.
- 3.6 The Hillingdon Local Plan: Part 1 Strategic Policies (Adopted November 2012) is the Council's starting point for developing a forward looking vision for Hillingdon. It outlines the Borough's positive attributes (such as its town centres) as well as its areas of deprivation. Given that the Local Plan was adopted as recently as November 2012 and it is underpinned by an Inspectors report stating that the research assessments that support it are sound; it is difficult to envisage a stronger justification than the Local Plan to support the exemption areas proposed in this report.
- 3.7 Hillingdon is an outer London suburb where the strategic vision is to reduce commuting out the Borough into Central London and to encourage local employment. This helps encourage sustainable modes of transportation and the reduction of carbon emissions. The Local Plan identifies the importance of linking deprived areas with employment benefits (which would include bringing existing vacant office space into use and encouraging office based uses) arising from the development of major sites and existing key locations. The Local Plan identifies the protection of existing employment land and an objective of creating 9000 new jobs in the plan period (up to 2026).
- 3.8 The Local Plan states that it is important not to ignore the role of local centres such as Eastcote and Northwood Hills and therefore includes policies to manage the growth, viability and regeneration of identified town and neighbourhood centres. The town centres first policy is about supporting town centres as concentrations of economic activity.
- 3.9 The Local Plan has a spatial strategy that identifies key locations where the Council is seeking employment growth/commercial development (As illustrated in Maps 4.1 and 5.1 which are attached to this report) and where the Council is seeking to strengthen the

commercial offer of Metropolitan, District, Minor or Local Centres (Map 5.3 –Town centre Improvements also attached to this report as Appendix 2). The locations referred to above are all areas where the Council is seeking to strengthen or retain existing office floorspace. It is considered that there would be a major destabilising effect on Hillingdon's economy if office floorspace were to convert to residential floorspace in these locations. A list of all the proposed exemption areas is also included in Appendix 2.

- 3.10 There would be various adverse impacts on surrounding residents, the highway network (increased trip generation with no investment in highway infra-structure as well as over-spill parking in surrounding residential streets) and on local services (in particular un-planned growth impacts on health facilities and local schools) from un-regulated conversions of offices to residential. It should be noted that the Government is not consulting on these proposals; it is merely allowing exemption areas. Officers consider that in the short time-scale available to the Council the most appropriate response is to seek exemption status for all areas identified in the Local Plan as key contributors to office development.
- 3.11 The Government considers that positive benefits would occur from additional housing units, construction outputs and jobs linked to the construction sector. The Council's property and finance experts consider that greater economic benefits occur from office use than residential use. Cabinet should also be aware that the financial burden of infrastructure demands created by the additional residential development would not be met by Section 106 payments, exacerbating the adverse financial impact on the Council. However, Community Infrastructure Levy (CIL) payments apply even for permitted development, so the infra-structure impacts would be mitigated to an extent from September 2013 (the Council's target date for adopting CIL). The exemption areas proposed in this report do not cover all of Hillingdon. In particular, they exclude a number of offices located on key strategic routes outside of designated industrial estates and town centres (e.g. Along the Uxbridge Road). In this regard, officers consider that an objective view is being taken and the proposed exemption areas do not seek to protect all office stock, rather key employment locations. In this regard it is considered the proposed exemption areas address the Government's key criteria for designating exemption areas.
- 3.11 Taking all of the above into account, it is not difficult to see that a sudden reduction in office floor space would adversely impact on the entire spatial strategy outlined in the Local Plan. Whereas third parties might say that lease agreements, existing legal agreements and planning conditions might restrict the release of office space the Council does not have a clear picture of how much office floor space would be un-affected by the permitted development right changes. Officers have concerns that developers will firstly choose to convert those offices in the best positions (close to tube stations and transport nodes where land values are higher - re: In Town centres) and that they will not look to convert poorly located properties or premises in poor condition (re: The properties most in need of renovation). It is therefore recommended to Cabinet that they delegate authority to officers to seek exemption status for all those sites listed in Appendix 2 of this report through appropriately worded submissions to the DCLG.

## **Financial Implications**

The report outlines the officer response to the changes proposed by Central Government with regards to permitted development relaxation.

This relaxation of permitted development will have an adverse impact on the level of planning application fees for extensions that would previously require planning permission. The fee level generated for these types of planning applications are circa £250k - £300K per annum, the estimated impact is expected to be around a 25% reduction, this combined with the loss of fee income from broadband infrastructure in exempt areas could see a reduction in fees received by the Council of £75k - £100k per annum. The increased permitted development size limits are for a limited 3 year period for the areas as outlined in the report above and 5 years for broadband infrastructure. However it may be impracticable to cut off development in such a time limit and therefore could have a longer lasting impact on fee income.

The change to permitted development rights for offices to residential use will have wide and difficult to anticipate financial impacts. For example there will be an impact on the Council's ability to grow the local business rate base, which will therefore limit the Council's ability to take advantage of the new policy for business rates retention.

There will also be a greater financial burden generated from any switches of commercial to residential development, as it is considered to create a greater burden on local infrastructure requirements. These costs can be mitigated by CIL charges for the residential development (which are planned to be adopted by the Council in September 2013). However, as the CIL charge itself has been produced on an economic viability of development basis, rather than on a cost of the actual infrastructure that may be needed, there is likely to be a gap which will be an increased burden for the Council. It should be noted that the CIL is new legislation with little or no case law developed and changes of this nature may create unintended consequences which have a negative financial impact.

Furthermore, the consequential growth in resident numbers beyond the areas anticipated in the strategic spatial planning of the Council will place further increased demands on local council services such as highways, environmental services and school places. This will put pressure on both revenue budgets, and on the Council's capital programme for schools expansion.

#### **4. EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES**

##### **What will be the effect of the recommendation?**

With regard to the consultation on single storey rear extensions, the Council's response seeks to protect the amenity of our residents and the character of the built environment of Hillingdon from harmful development. With regard to the changes to permitted development for office buildings the recommended exemption areas would protect the economic vitality of the Borough.

##### **Consultation Carried Out or Required**

None at this stage.

## **5. CORPORATE IMPLICATIONS**

### **Corporate Finance**

The relaxation of permitted development rights is expected to impact adversely on planning fee income, while there is potential for compensatory cost reductions within the planning service it will be necessary to review the full impact and factor this into MTFE assumptions going forward.

In terms of the change of permitted development rights with regard to offices, there is a clear financial incentive for developers to move towards residential uses and unrestricted conversion of property would lead to significant reductions in commercial space within Hillingdon. Such a reduction would adversely affect economic growth, impacting upon residents through reduced employment local opportunities and place additional burdens on local services as an influx of new residents increases demand. These burdens would initially not be met by Section 106 payments, exacerbating the adverse financial impact on the Council, although CIL payments would still be required from September 2013 for developments (the Council's target date for adopting CIL). By maintaining existing planning controls in key areas, the Council will be able to balance the conflicting demands for residential and commercial space within the Borough; as such Corporate Finance supports the recommendations.

In addition to these wider economic issues the transfer of property from commercial use could adversely affect the Council's own finances, with scope to grow the local business rate base being curtailed and increasing demand for investment in local infrastructure.

### **Legal**

#### **Legal Comments**

Permitted Development rights are set out in the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (the "GPDO"). The General Permitted Development Order sets out what is allowed under permitted development and any limitations and conditions that apply.

The Council has the power to remove certain permitted development rights within its area. In order to do this the Council would need to make an Article 4 direction and would need to be satisfied that it is expedient that permission for the types of development being restricted should only be granted on application to the Council. The Secretary of State has the power to revoke an Article 4 direction.

#### **Consultation on Single Storey Rear Extensions:**

The Government consulted with the Council on their proposals to relax planning rules to enable people to carry out extensions to their properties without the need for planning permission. At present permitted development rules enable people to carry out extensions subject to certain size limits without the need for planning permission. Under the GPDO the Government proposes to increase those size limits for a period of three years in an attempt to boost economic growth.

The Government consulted councils and requested their views in relation to these proposed extensions. Whilst the Council is not required to provide a response, the Council did provide a robust consultation response to ensure its views were taken into account. The Government

should carefully analyse the Council's consultation responses and provide feedback to the Council once the consultation period has closed.

### **Changes to Permitted Development Rights for Office use to Residential use:**

The Town and Country Planning (Use Classes) Order 1987 (as amended) puts uses of land and buildings into various categories known as 'Use Classes'. Planning permission is usually required for a material change of use although there are exceptions to this rule for example a change of use within the same use Class does not involve the development of land and therefore planning permission is not required.

The Government has informed the Council that they are soon to implement permitted development rights for a change of use from B1 (a) office use to a C3 residential use without the need for planning permission. This exception is subject to a prior approval process covering significant transport and highways impact and development in safety hazard zones, areas of high flood risk and land contamination. Should the prior approval process not be satisfied planning permission will be required. The permitted development rights will only cover changes of use and any associated physical development which currently requires a planning application will continue to need permission. The new exception will initially be time-limited for a three year period although this may become a permanent change to the law.

The Government has stated that councils may apply to exempt specific parts of their locality. In order to apply the Council must demonstrate that the introduction of these new permitted development rights in a particular area will either lead to either

- A. A loss of a nationally significant area of economic activity; or
- B. Will cause substantial adverse economic consequences at local authority level which are not offset by the positive benefits the new rights would bring.

In both of the above criteria the Council must provide a detailed description of the adverse impacts they anticipate and demonstrate clearly how the introduction of these permitted development rights will lead to that impact and why the proposed area should be exempted.

The Council has until the 22 February 2013 to prepare the application, produce the evidence and submit the application. It has been highlighted by Government that they have set high thresholds and will only grant an application in exceptional circumstances. The Government has set out how it will assess an application in relation to the above two criteria in the Government's letter dated the 24 January 2013, which is attached to this report.

The Government has highlighted there is unlikely to be another opportunity to request an exemption during the three year period in which the rights apply. The Council has the option to use the powers under Article 4 to exclude the relaxation of the rules (either wholly or partially) from having effect in Hillingdon.

There is no set date by which the Council will be informed as to whether the application has been successful. The Government have not provided any route of appeal should the Council's application be refused although the Council does have the option to judicially review the Government's decision should there be sufficient grounds to do so.

### **Corporate Property and Construction**

Apart from the Civic Office the Council has little in the way of office assets.

Where office accommodation that is genuinely surplus to requirement and is not providing jobs or employment, is converted to residential housing this could make a significant contribution towards reducing homelessness, housing and affordable housing targets. The benefits would be construction employment and training, S.106 payments and income from increased council tax payments and new local resident spending.

However; it is clear strategic locations for employment use and creation of employment need to be excluded in order to retain the business character of these areas.

### **Relevant Service Groups**

No other service groups are directly impacted by the recommendation.

### **6. BACKGROUND PAPERS**

NIL