



Department for
Communities and
Local Government

Chief Planning Officers
Local Planning Authorities (England)

24 January 2013

Dear Chief Planning Officer,

Permitted development rights for change of use from commercial to residential

I am writing to alert you to the forthcoming permitted development rights for change of use from B1(a) office to C3 residential purposes, which will come into force in Spring 2013.

On 6 September 2012 the Government announced, as part of a package of measures to support economic growth, that these permitted development rights would be introduced to better enable change of use from commercial to residential purposes. This follows careful consideration of the April 2011 consultation and builds on the policy set out in paragraph 51 of the National Planning Policy Framework.

The new rights will initially be time-limited for a period of three years. We will consider towards the end of that period whether they should be extended indefinitely. They will be accompanied by a tightly drawn prior approval process which will cover significant transport and highway impacts, and development in areas of high flood risk, land contamination and safety hazard zones. More details are set out in Annex A.

Alongside the new permitted development rights it was announced that local authorities would be given an opportunity to seek an exemption for specific parts of their locality. If you consider that a specific part of your locality should be exempted from this change, and meets the criteria set out below, you now have an opportunity to request an exemption from these new rights. It should be recognised however that this measure is seen as an important contribution to assisting the economic well-being of the country and this is reflected in the high thresholds we are setting, which recognise that any loss of commercial premises will be accompanied by benefits in terms of new housing units, additional construction output and jobs. These benefits are potentially very substantial and are likely to be felt at the local authority level and wider.

Therefore, exemptions will only be granted in exceptional circumstances, where local authorities demonstrate clearly that the introduction of these new permitted development rights in a particular area will lead to:

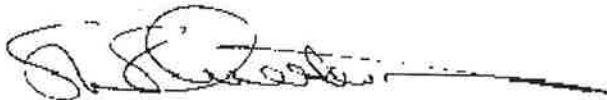
- A. the loss of a nationally significant area of economic activity
- or
- B. substantial adverse economic consequences at the local authority level which are not offset by the positive benefits the new rights would bring.

If you propose to request an exemption it must relate only to the geographical area justifiable in the light of the above criteria.

More detailed requirements and an explanation of the assessment process are set out in Annex B.

If you feel that an exemption request can be justified you are invited to make a submission to Sam Pigden at the address given at the bottom of the first page of this letter. Your submission must reach us by **5pm on Friday 22 February 2013**. We expect to confirm which areas will be exempt in Spring 2013, with the permitted development rights coming into force in Spring 2013.

A copy of this letter has been sent to the Chairs of the Local Enterprise Partnerships for their information.

A handwritten signature in black ink, appearing to read 'Steve Quartermain', with a long horizontal line extending to the right.

Steve Quartermain
Chief Planner

Annex A

THE PERMITTED DEVELOPMENT RIGHTS

What will these permitted development rights allow?

They will permit change of use from B1(a) offices to C3 residential.

This is subject to a prior approval process covering:

- significant transport and highway impacts
- development in safety hazard zones, areas of high flood risk and land contamination

The permitted development rights will only cover change of use: any associated physical development which currently requires a planning application will continue to need one.

A proposed change from commercial to residential use that does not benefit from the new permitted development rights (e.g. where it cannot satisfy the prior approval requirements) will continue to require a planning application, which should be determined in the light of paragraph 51 of the National Planning Policy Framework.

When will these new rights come into force?

They will come into force in Spring 2013 and run for a period of three years from the date of coming into force. The operation of the rights will be considered towards the end of that period, and the rights may potentially be extended for a further period or indefinitely.

Annex B

THE EXEMPTION PROCESS

How will requests for exemption be assessed?

For (A), referring to **the loss of a nationally significant area of economic activity**, requests will be assessed by considering:

- the scale of the adverse impact in absolute terms
- the significance of the adverse impact at a national level
- the degree to which there is likely to be a strategic and long-term adverse economic impact
- whether the proposed area of exemption is the smallest area necessary to address the potential adverse economic impact

For (B), referring to **substantial adverse economic consequences at the local authority level which are not offset by the positive benefits the new rights would bring**, requests will be assessed by considering:

- the scale of the impact in absolute terms
- the significance of the adverse impact at the level of the local authority or wider
- the degree to which there is likely to be a strategic and long-term adverse economic impact
- whether the proposed area of exemption is the smallest area necessary to address the potential adverse economic impact

Local authorities must provide a detailed description of the adverse impact they anticipate, and demonstrate clearly both how the introduction of these permitted development rights will lead to that impact, and why the particular area should be exempted. A clear explanation must be given of how any additional evidence supports this case.

The benefits which the policy will deliver have been taken into account in setting a high threshold for exemptions, and will not be assessed separately. Local authorities are therefore not required to submit information on this.

What information must be submitted?

- A map clearly identifying the proposed area of exemption. This must be a black and white Ordnance Survey Map, at a minimum scale of 1cm = 0.1km. There must be no shading or colouring on the map with the exception of a single coloured line indicating the proposed area of exemption.
- A report which specifically addresses the anticipated impact, and the above four assessment criteria, making reference to supporting evidence where appropriate.

Requests for exemption may be made under both (A) and (B), but separate maps/reports will need to be submitted for each. Different supporting evidence may also be appropriate.

What supporting evidence would be appropriate?

It is a matter for the local authority what evidence they choose to submit in support of their application. The following list is not exhaustive, but matters which may be relevant could include:

- evidence on matters such as the makeup of business accommodation in the relevant area, office vacancy rates and employment levels/trends
- evidence on local economic development strategies
- for (A), evidence relating to the national significance of the economic activity
- evidence on the likely immediate impact of the changes, and the likely long-term impact
- evidence on the likely impact on local clusters and sources of local employment growth
- the view of the Local Enterprise Partnership on whether the loss of business space in a particular locality would have a significant impact on the wider local authority area

Local authorities must clearly demonstrate the way in which the evidence provided supports their arguments on the assessment criteria set out above.

What if the proposed area spans two local planning authority areas?

Adjoining local authorities are welcome to submit joint requests for exemption where the area in question crosses a local authority boundary. However, separate maps will be required for the areas within each local authority.

What does exemption mean in practice?

An exemption means that the permitted development rights do not apply in that area. Planning permission must therefore be sought in the normal way for any proposed change of use from B1(a) offices to C3 residential. Paragraph 51 of the National Planning Policy Framework would apply to the determination of that planning application. No compensation liability will arise in exempted areas.

How will the exemptions be implemented?

Where exemptions for specified areas are granted, this will be set out in the General Permitted Development Order.

Will there be another opportunity to request an exemption?

There is unlikely to be another opportunity to request an exemption during the three-year period in which the rights apply.

Are there other ways to remove these permitted development rights locally?

This exemption scheme does not alter the powers which local planning authorities have to tailor permitted development locally by means of an article 4 direction, or a condition in a planning permission.

When will exempt areas be announced?

Those who have requested exemptions will be notified of the outcome as soon as possible.