

**DEPARTMENT OF COMMUNITIES AND LOCAL GOVERNMENT  
CONSULTATION PAPER ON CHANGES TO PLANNING PERMITTED  
DEVELOPMENT RIGHTS FOR SCHOOLS - CONSULTATION RESPONSE**

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<b>Cabinet Portfolio</b>	Planning, Transportation & Recycling
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<b>Papers with report</b>	Appendix 1 contains a copy of the letter being sent to CLG

**HEADLINE INFORMATION**

<b>Summary</b>	The Government has consulted on various options it is considering to free up the planning system for school's, this would be achieved by removing the need for changes of use of various wide ranging types of use of buildings to educational use. The consultation ends on the 10 <sup>th</sup> December. An officer response has been sent. The purpose of this report is to seek agreement to the letter sent to hit the deadline of the 10 <sup>th</sup> December.
<b>Contribution to our plans and strategies</b>	The freeing up of land for schools should make a positive contribution towards Hillingdon as a Borough of learning and culture. However, unless the changes to the planning system are very carefully considered there could be potential adverse consequences with respect to, a safer Borough (in-accessible schools in potentially dangerous locations for children and impact on traffic congestion as well as the built environment).
<b>Financial Cost</b>	As new school applications are likely to be limited there should not be a major impact on planning fee income. Financial impact could be placed on the Council to address issues connected with highway and community safety that would otherwise have been picked up by the planning process (these could vary widely from case to case so it has not been deemed possible to estimate the costs).
<b>Relevant Policy Overview Committee</b>	Residents' and Environmental Services Policy Overview Committee
<b>Ward(s) affected</b>	All

**RECOMMENDATION**

**That Cabinet agree the officer response attached as Appendix 1 to the DCLG (Department of Communities and Local Government) regarding the proposed consultation on 'planning for schools development'.**

## **INFORMATION**

### **Reasons for recommendation**

The consultation deadline (10 December) falls just before the Cabinet meeting date. The officer response attached at (Appendix 1) was sent to meet the CLG deadline of the 10<sup>th</sup> December. It should be noted that the Consultation period was shorter than normal for Government consultations; hence an earlier Cabinet report was not possible.

### **Alternative options considered**

The Council could have declined to comment. There is clearly a strong Government intention to free up the planning system for schools (see paragraph 12 below). However the most pro-active option was considered to be to highlight possible unforeseen consequences so as to influence the possible final decision made on changes to planning legislation concerning changes of use to schools.

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

Not at this stage.

### **Supporting Information**

1. The Secretary of State for Communities and Local Government made a statement to the House of Commons on 26 July outlining the importance of establishing new free schools and making clear that in considering planning applications for schools development, significant weight should be given to the desirability of establishing the school. He also outlined his intention to consult on changes to the Planning Use Classes Order to reduce unnecessary regulation and make it easier for buildings currently in other uses to be converted to schools.
2. There are a number of buildings that can already be used as schools without the need for a planning application. These are the uses included alongside schools in the D1 planning use class, namely: clinics, health centres, crèches, day nurseries, day centres, art galleries (other than for sale or hire), museums, libraries, halls, places of worship, church halls, law courts, non-residential education and training centres.
3. The Government therefore proposes that one option is that the following uses also be given a permitted development right to convert to a school use without the need for planning permission:
  - A1 Shops - Shops, retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices (but not sorting offices), pet shops, sandwich bars, showrooms, domestic hire shops, dry cleaners, funeral directors and internet cafés.
  - A2 Financial and professional services - Financial services such as banks and building societies, professional services (other than health and medical services) including estate and employment agencies and betting offices.
  - B1 Business - Offices (other than those that fall within A2), research and development of products and processes, light industry appropriate in a residential area.
  - B8 Storage or distribution.
  - C1 Hotels - Hotels, boarding and guest houses where no significant element of care is provided (excludes hostels).
  - C2 Residential institutions - Residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres.

- C2A Secure Residential Institution - Use for a provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short term holding centre, secure hospital, secure local authority accommodation or use as a military barracks.
- D2 Assembly and leisure - Cinemas, music and concert halls, bingo and dance halls (but not nightclubs), swimming baths, skating rinks, gymnasiums or area for indoor or outdoor sports and recreations (except for motor sports, or where firearms are used).

4. The Government is inviting views as to whether conditions should be attached to require the school promoter to assess some of the impacts that could arise from its proposed development, specifically around transport impacts, and to submit that assessment for prior approval by the local planning authority before they can activate the permitted development right.

5. The consultation document advises that *'the Government expects that once the school is established, its representatives will take responsibility for managing its impact on the local area, such as the effects of the traffic it generates and the impact on immediate neighbours. However, it recognises that if any infrastructure is required, the local authority will need to deliver it and will not necessarily have set aside the budget to do so'*. This clearly raises financial issues.

6. There are 4 options outlined:

- (i) The list of uses shown under paragraph (3) above, although not specifically stated seems to be the Government's initial preference; Officers consider that some of these uses should not be considered appropriate for changes of use as detailed in the consultation response.
- (ii) No change whatsoever to the existing Use Classes Order; This option would have no impact on Hillingdon, but does not seem to be an option the Government is considering at this stage.
- (iii) To enable a change of use to occur without planning permission for all changes of use as outlined in paragraph (7) below. There are many uses which officers consider should not be subject to an unfettered change of use, in particular sui-generis.
- (iv) To enable the list shown as paragraph (7) below but with conditions of prior approval (e.g. requiring a Transport Assessment to be agreed) as outlined under paragraph (4) above; and A final option is to enable a change of use to occur without planning permission for all changes of use as outlined in paragraph (7) below. The key comment outlined by officers in the consultation response is questioning the CLG as to why they only give the option of conditions being applied prior to approval for all uses classes rather than just some.

7. An option is put forward to include not just the use classes outlined under (3) above but also the following remaining use classes:

- A3 - restaurants and cafés / A4 – drinking establishments/ A5 – hot food takeaways;
- B2 – general industrial (this is normally heavy industry sites);
- C3 – dwellinghouses (re: family Houses);
- C4 – houses in multiple occupation; and
- Sui generis uses (this is a multitude of odd uses which don't fall into any class and include launderettes, amusement arcades and petrol stations).

8. The changes proposed would affect only those developments that involve purely converting non-school buildings for school use. Where a schools development requires any additional work to change the exterior of an existing building or is a new build development, planning

permission will be required in the normal way. However such applications will not enable consideration of issues which arise from the change of use (e.g. highway impact, suitability of location for a school).

9. The Consultation document is clear that the Government is seeking; *'views as to whether the scope of the proposals should be restricted.'*

10. The Councils consultation response specifically focuses on what could be described as 'unforeseen consequences' that could arise from the proposed options, both generally and based on specific issues that apply to Hillingdon. This is considered to be the most pro-active way to respond to the consultation.

11. A question is asked in the consultation concerning whether new 'free schools' should be treated differently. It is questionable whether the planning system should seek to favour one type of school over another. It would be inappropriate for two standards to exist, one for Local Authority Schools and one for free schools. This view is clearly stated in the consultation response.

12. The consultation includes 11 questions which those responding to the consultation have been asked to answer. The 11 questions are worded in such a way that they enable all the 'unforeseen consequences' to be explained. The Councils response therefore follows the proposed response framework.

13. The consultation deadline (10 December) falls just before the Cabinet meeting date. The response attached at Appendix 1 was prepared by officers to ensure a response was issued in time. It should be noted that the Consultation period was shorter than normal; hence an earlier Cabinet report was not possible. The consultation paper addressed the issue of the short consultation period (4 weeks less than normal) by stating that:

*'A shortened consultation period is required to offer sufficient time for school promoters to obtain properties that can be operational from September 2011 in line with the Government's commitment that new free schools will begin to operate in the 2011-12 academic year.'*

## **Financial Implications**

There are no direct financial implications from returning a response to this consultation. However there is a potential financial implication for the reduction in planning application fees that would be associated with such sites, were a site be allowed to change its use under permitted development. The impact on this fee income is thought to be limited as there are only a modest number of new school applications submitted over the period of a year.

However a far more strategic implication relates to the following line in the consultation: *"However, it recognises that if any infrastructure is required, the local authority will need to deliver it and will not necessarily have set aside the budget to do so'."*

School planning applications can have S106 agreements to address transport impacts (this tends to be the only obligation).

The implication is that removing the need for changes of use applications removes the Councils ability to require planning obligations to address highway impacts. To a lesser extent community safety issues can arise such as safe routes to schools. The highway impacts in particular could have financial implications on the Council; but given the uncertainty over how many such cases might arise it is impossible to quantify what that impact might be. For this reason the Councils

response states that it is considered that full transport statements should be required. The practical implication of this is that the Council would have to refuse prior approval (thus triggering a requirement for a full planning application) of any school proposal it thought might require a planning S106 agreement to address highway impacts.

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

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

It is considered by officers that local service users, communities and local residents would wish the Council to highlight to Central Government any consequences of the options proposed by the consultation.

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

NONE

## **CORPORATE IMPLICATIONS**

### **Corporate Finance**

Corporate Finance has reviewed this report and concurs with the financial implications set out above.

As noted above, in cases when planning permission is not sought, the cost of any works to address the impact of new schools on local infrastructure will need be met from Council Resources and may represent an additional call on Highways budgets.

### **Legal**

The DCLG consultation considers whether classes of development within the Town and Country Planning (Use Classes) Order 1987 (as amended) should be given permitted development rights to change use to a school; and if so, which classes should have that right attached to them.

The consultation is a public consultation and it is open to anyone to respond. Local planning authorities are particularly invited to express their views. Where a consultation takes place any consultees' views must be taken into account. Consultees' views must be properly considered, but the Secretary of State and consulting Government department are not bound to adopt those views in finalised policy or legislation.

The consultation was published on 14<sup>th</sup> October 2010 and ends on 10<sup>th</sup> December 2010. This is an eight week period and, as stated in the report, is shorter than the usual 12 week period as set out in the Government's Code of Practice on Consultation.

There are no specific legal implications for the submission of a response to a Government Consultation. When considering a response the respondent should ensure that it is made by the deadline, which in this case is 10<sup>th</sup> December 2010, so that its views are taken into account and if possible in the format and layout suggested in the consultation paper.

## **BACKGROUND PAPERS**

Appendix 1 – Consultation Response.