

**Technical consultation on planning – response from London Councils**

London Councils is committed to fighting for more resources for the capital and getting the best possible deal for London’s 33 local authorities. We lobby key stakeholders, develop policy and do all we can to help our boroughs improve the services they deliver. We also run a range of services ourselves, all designed to make life better for Londoners.

London Councils welcomes the opportunity to respond to this consultation. Our response is focused on sections 2, 3 and 4 of the consultation, namely the proposed extension of permitted development rights, the proposals on deemed discharge of planning conditions and the proposals to alter thresholds for consultation of statutory bodies.

**Summary**

London Councils welcomes the government’s commitment to new housing delivery and to supporting economic growth in local communities. We are supportive of some elements of the proposals contained in the *Technical consultation on planning*, in particular the new powers proposed for councils to better control the proliferation ofbetting shops and payday loan shops. We also welcome the proposed changes to consultation thresholds for outside bodies. We consider these proposals will help boroughs to support and accelerate growth through the planning process while protecting the interests of local communities.

Overall, however, we believe that the government’s proposals are too narrowly focused on removing powers from local communities and their elected representatives. There are means of accelerating development which do not rely on undermining the planning system and, in any event, we are not persuaded that the proposals will provide a significant increment to the homes Londoners need.

We have the following concerns in particular:

* New permitted development rights for residential conversions risk introducing housing in inappropriate locations, undermining neighbouring employment uses
* The ‘prior approval’ process includes no mechanism to require affordable housing contributions or to meet minimum space standards
* Viable and successful office spaces will be lost and businesses evicted with no guarantee that housing will be delivered
* The proposed A1 class is too broad and does not allow boroughs to properly support retail uses in high streets and town centres
* We are very concerned at the proposal to remove the existing exemptions for strategically important office locations which risk undermining the London economy
* Boroughs should retain the power to set parking standards at a local level in the interests of economic growth and local communities
* Article 4 directions should apply to all premises in a designated area including those which have previously been granted prior approval
* The deemed discharge proposals risk undermining the quality of new developments and discourage developers from consulting local communities on the detail of schemes

Instead of taking powers away from communities, London Councils believes that the best way the government can support new homes and economic growth is through a robust, well-resourced and transparent planning system, enabling boroughs, developers and local people to work together to deliver the new homes and infrastructure London needs.

Our detailed responses to the consultation questions are set out below.

**Section 2: reducing planning regulations to support housing, high streets and growth**

London Councils strongly supports housing growth in the capital. Our analysis of London’s housing needs found that over 800,000 homes will need to be built over the next decade to keep pace with London’s booming population and meet the backlog of existing demand[[1]](#footnote-1). Homes in London are becoming increasingly unaffordable with negative consequences for communities and the capital’s economy. It is therefore critically important that all partners work together to address the housing crisis, including supporting the provision of the right types and tenures of homes to meet rising need.

London Councils believes that the planning system, including the local plan framework, is the best means of supporting growth that meets the needs of local communities. We are concerned that many of the proposals contained in Section 2 further undermine this system and therefore undermine the ability of boroughs and their partners in the public and private sector to help support the growth London desperately needs. We do not agree with the government’s apparent perspective that the planning system acts as a block on growth. Nor do we believe that the proposals contained in this Section are likely to secure sustainable housing and economic growth. Instead, they could incentivise further land and property speculation, with any additional development likely to be of poor quality and without the mix of size and affordability that London needs.

London Councils also believes that the proposals contained in this section represent an unwelcome centralisation of control by the government. Boroughs are directly accountable to local communities. They are therefore best-placed to identify and prioritise development in their localities, to support development which meets local needs, and to ensure that negative impacts are prevented or mitigated.

The measures contained in Section 2 mostly remove powers from communities and centralise them with government. We welcome some proposals contained in the Section, such as those which better enable local authorities to control the proliferation of betting shops and payday loan shops. However, most of the proposals will restrict boroughs from shaping high streets, town centres and key employment areas in the interests of their localities. For this reason, we strongly encourage the government to reconsider.

Our responses to specific questions are below.

**Question 2.1: Do you agree there should be permitted development rights for (i) light industrial (B1(c)) buildings and (ii) storage and distribution (B8) buildings to change to residential (C3) use?**

London Councils does not support the proposed change.

Light industrial and storage and distribution buildings are often located in areas designated for employment use by the local authority. This means that, with neighbours largely undertaking activities of a similar nature, impacts such as noise and traffic are of a lesser consideration than in residential areas.

The differential values attracted by light industrial/storage uses and residential uses respectively create a major incentive for landlords and developers to convert employment sites. If a small number of buildings in an employment area convert there will be pressure for others to follow and realise these higher values. In addition, introducing a residential population to these areas is likely to generate complaints relating to noise, for example relating to heavy goods vehicles or industrial processes. This further threatens the viability of existing businesses in such locations.

In addition, the ability of boroughs to secure planning gain on residential development can have significant benefits for local communities. These may include the provision of affordable housing and local infrastructure. London Councils is concerned that these proposals remove any possibility of planning gain and therefore limit the benefits of such developments for local people.

The NPPF and London Plan both require boroughs to determine and provide for objectively assessed housing need in their localities, including affordable housing need. The absence of any Section 106 agreement under permitted development rights means such conversions are highly likely in practice to contain no affordable housing.

If confirmed, this proposal would therefore undermine the ability of boroughs to meet their objectively assessed need through supporting affordable housing. Similarly, the circumvention of the local plan process means that boroughs will be unable to enforce policies around housing mix and supporting infrastructure. The developments that result are therefore unlikely to meet the requirements for sustainable development set out in the NPPF.

**Question 2.2:** **(iii) should other issues be considered as part of the prior approval, for example the impact of the proposed residential use on neighbouring employment uses?**

London Councils opposes these proposals in principle. However, if they are to be introduced, we would strongly support the inclusion of neighbour impact as a consideration in the prior approval process. The prior approval should be worded in such a way as to ensure that boroughs are able to adequately protect areas designated in local plans for employment and industrial uses. This will ensure boroughs can support sustainable housing growth, maintain vibrant and mixed local economies and avoid the wholesale loss of local employment.

**Question 2.3: Do you agree that there should be permitted development rights, as proposed, for launderettes, amusement arcades/centres, casinos and nightclubs to change use to residential (C3) use and to carry out building work directly related to the change of use?**

London Councils does not support this change for similar reasons to those set out in question 2.1 above. We are concerned that facilities such as amusement arcades, casinos and nightclubs are generally located in areas with high noise impacts. London Councils recognises the need for new housing and agrees with the Mayor that town centres can be a sustainable location for high-density new development. However, given the diverse mix of uses in town centre locations, it is important that new residential development is managed through the planning process. This helps ensure that it does not negatively impact on existing business and damage local economies. For example, the introduction of a residential population may bring increased noise complaints, threatening the viability of some businesses. The best way to ensure that such impacts are properly balanced and managed is through the planning process.

**Question 2.4: Should the new permitted development right include (i) a limit on the amount of floor space that can change use to residential and (ii) a prior approval in respect of design and external appearance?**

If the government confirms these proposals London Councils would support an appropriate floor space limit to ensure that large buildings unsuitable for residential development are excluded. London Councils would certainly support any prior approval in respect of design and external appearance. We would also wish to see a more expansive prior approval along the lines of that suggested for the conversion of light industrial/storage buildings. This would enable local authorities to consider the impact of the introduction of residential accommodation in non-residential areas before granting approval for such conversions. Finally, the prior approval should also contain provision for the protection of laundrettes where these are identified as a vital service to local communities.

**Question 2.5: Do you agree that there should be a permitted development right from May 2016 to allow a change of use from offices (B1(a)) to residential (C3)?**

London Councils opposed the temporary permitted development right for the conversion of offices to residential use. This right has been in place since May 2013 and we do not consider that enough time has elapsed for the government to have undertaken a proper evaluation of the impact of the new rules. Indeed, the consultation makes no reference to any assessments that have taken place, instead justifying making the rules permanent on the sole grounds of “continuing to support the housing market”.

We are particularly concerned at the proposed removal of exemptions from the rights for key office locations in London. In introducing the exemptions the government recognised that locations such as the Central Activities Zone, Canary Wharf and Tech City were of international economic importance, and that locations such as the Royal Borough of Kensington & Chelsea contained strategically and locally important concentrations of offices. Their strategic locations also naturally mean that the exempted areas are also extremely attractive for residential development.

London boroughs see the provision and maintenance of sufficient sustainable office space, particularly in and near town centres and high streets, as a key component of their growth strategies to encourage businesses to locate and invest in their areas. The existing temporary permitted development rights have already undermined this objective.

In some individual boroughs such as Richmond, the approval applications run into the hundreds. This is likely to be due to the significant differential between office and residential values in these boroughs. As the current rules draw no distinction between vacant and occupied space, such approvals can also result in the eviction of successful businesses, damaging the viability and diversity of local economies.

For example, one borough saw a major town centre office block with 7,000 sq m of office space granted prior approval, immediately after which all 100 businesses were given notice to quit. There is currently little evidence of activity at this block. Boroughs such as these are therefore seeing disruption to local economies and employment in key strategic areas without even deriving the benefit of new housing delivery.

In another London borough with a proactive approach to growth and development, prior approval has already been granted for the loss of over 75,000 sq m of office floorspace including one major town centre block comprising 28,000 sq m of space alone. The loss of such significant office spaces can undermine the wider viability of local office markets, which benefit from a critical mass of similar accommodation in their localities.

Another borough located in inner London commissioned a study which found that it had seen the loss of 257,000ft of B1a office space in the 12 months after the original permitted development rights were introduced. The study estimated that this has resulted in the loss of approximately 2,570 jobs or over 12% of the total in its study area. This borough is a major employment centre and is forecast to see an increase in demand for office floorspace of around 615,000 sq m between 2006 and 2026. Given this demand, a consequential effect of the permitted development rights is also likely to be increased rents for businesses.

The effect of removing the requirement for planning permission from such conversions will be that the benefits of new development will flow entirely into private hands. The Community Infrastructure Levy and Section 106 agreements exist in recognition of the fact that landowners and developers derive considerable financial benefit from the completion and sale of new housing. It is therefore only reasonable that landowners and developers cover some of the cost of associated infrastructure requirements that the developments will generate. Section 106 agreements can also ensure that new development contains or contributes to much-needed affordable housing for local people, supporting local and national planning policy. One borough’s conservative estimate is that at least 180 affordable units which would have been secured through the planning process have already been lost through prior approval.

A permanent permitted development right for office to residential conversions therefore damages the interests of local communities in two ways: it risks the loss of viable and successful office space which often contributes significantly to the local economy, and it removes any opportunity for localities to share in the benefits of new development.

Permitted development rights also allow developers to circumvent other planning policy requirements such as minimum space standards. In one London borough this has resulted in proposals for conversions to studio flats of between 13 and 15 sq m each, well below the minimum space standards set out in both the borough’s local plan and in London Plan guidance. If the consensus remains that a plan-led system is the best means of supporting new development, it makes no sense to amend the rules in a manner which results in unsuitable, poor quality schemes with no infrastructure or affordable housing contributions being secured.

When the government announced its plans for permitted development rights for office to residential conversions, it estimated that there would only be a slight increase in the number of such conversions taking place annually[[2]](#footnote-2), with the figure rising to between 90 and 180 conversions a year by 2015/16.

However, surveys conducted by the GLA of prior approval applications for office-to-residential conversions have found that approval has been sought for the conversion of at least 1,400 office spaces in London alone, of which at least 887 have been granted prior approval. Survey data on the amount of office space lost is not comprehensive but finds that at least 410,000 sq m of office floorspace in 628 schemes has been granted prior approval for residential conversion. At least 208 of these schemes were fully occupied at the time of grant of prior approval.

London boroughs are also seeing schemes that had previously been submitted through the full planning application system, and rejected for their poor quality, being agreed through the prior approval process owing to the very narrow range of considerations (highways, transport and flooding) that boroughs are permitted to consider in determining prior approvals.

London Councils does not therefore support the proposal to make the permitted development rights for office to residential conversions permanent.

**Question 2.6: Do you have suggestions for the definition of the prior approval required to allow local planning authorities to consider the impact of the significant loss of the most strategically important office accommodation within the local area?**

London Councils strongly believes that existing office-to-residential exemptions should be maintained in the event that permitted development rights are made permanent in May 2016. In approving exemptions from the temporary permitted development rights in May 2013, the government recognised that some parts of London were of such critical economic importance that office space should continue to be protected through the planning system.

The government proposes in its consultation to remove all existing exemptions, to be replaced with a broader prior approval regime. London Councils is seriously concerned that such a proposal will undermine the ability of boroughs and others to support growth in key locations of economic activity. We would urge the government to reconsider its decision to remove the exemptions if the rights are made permanent. In addition, the government should consider extending the exemptions to cover more areas with large numbers of office spaces used by growth sectors.

If the government does consider that exemptions should be replaced with prior approval, we would urge that the definition be expansive enough that boroughs have the confidence to protect key economic areas through the prior approval process. This would mean a definition that incorporated not just those areas which were granted exemptions when the temporary rules were introduced, but which incorporates key areas of economic activity such as town centres and designated industrial and employment locations.

If such a definition were introduced, prior approval need not be subject to a blanket refusal in these areas. Rather, it would ensure boroughs had the ability to enforce local plan policies where appropriate. This would help boroughs support economic activity and avoid any need for the bureaucratic and cumbersome Article 4 Direction process in these areas.

The prior approval should also be worded so that it applies solely to vacant or underoccupied offices, with longstanding vacancy or underoccupancy being demonstrated as part of the application. This would prevent the loss of viable and successful office spaces and the eviction of businesses.

**Question 2.8: Do you agree that the shops (A1) use class should be broadened to incorporate the majority of uses currently within the financial and professional services use class?**

London Councils does not support the proposal to broaden the A1 use class to incorporate financial and professional services. Retail is properly protected in the Use Class Order in recognition of its importance to high streets and town centres, attracting footfall, encouraging people to spend money locally and encouraging local investment. While A2 uses such as banks and estate agents are also important to high streets, they attract less frequent custom and so their multiplier effect on local economies is reduced.

Many boroughs have policies to support A1 uses on high streets by specifying that a minimum proportion of units on a key shopping street should remain A1. These policies exist specifically because A1 is recognised as a use which brings major economic benefits for high streets. Broadening the A1 use class risks undermining such policies and undermining the viability of local high streets. This is contrary to the government’s stated policy aims in this area.

London Councils therefore believes it is important to maintain a separation in the Use Class Order between A1 and A2 uses. Applicants would retain the flexibility to convert A2 uses to A1 without planning permission, but there remains a strong case for planning permission to be required for the reverse.

**Question 2.9: Do you agree that a planning application should be required for any change of use to a betting shop or payday loan shop?**

London Councils warmly welcomes this proposal. We have long expressed the view that planning rules around betting shops should be tightened to help local authorities support growth on high streets in the interests of their communities. At present, a range of business uses can convert to betting shops without planning permission. This has led to a rise of ‘clustering’ of betting shops in high streets and town centres across London.

London Councils recently undertook a survey to gauge public opinion on the proliferation of betting shops. Some of the key findings were as follows:

* 58% of people felt that clusters of betting shops could be bad for high streets
* 63% of people disagreed that financial and professional services should be able to convert to betting shops without planning permission, while 51% of people strongly disagreed
* 66% supported more powers for local authorities to help them shape high streets in line with the wishes of their community, with 46% strongly supportive.

In addition, 44% of people felt there were too many betting shops on their high street with only 4% believing there were too few, and 23% stated that clusters of betting shops had led to there being less choice on their local high streets. These results make clear there is significant public concern that local authorities do not currently have sufficient power to control the spread of betting shops.

Some London boroughs have introduced planning policies to attempt to restrict the clustering of betting shops. Such policies can include Article 4 Directions to restrict changes of use to A2, or Supplementary Planning Documents restricting betting shop clustering. However, such policies are necessarily constrained by the fact that betting shops sit within a broader use class and therefore not all such conversions require planning permission.

London Councils therefore strongly welcomes the proposal to separate betting shops and payday loan shops from other uses in the Use Class Order, and to require planning permission for any change of use to a betting shop. We believe that this will give boroughs the planning powers they have long sought to control the proliferation of new betting premises. There are further powers that could be introduced to deal with existing clustering, but that this is more likely to be through changes to the licensing system rather than planning.

However, the proposal to retain betting shops and payday loan shops in the A2 use class while transferring the other uses in this class to A1 is counterproductive. Instead, betting shops and payday loan shops should be transferred into a ‘sui generis’ use class, with the A2 use class otherwise remaining unchanged. This will mean boroughs retain the power to support and protect high street retail uses as set out in the response to question 2.8 above.

**Question 2.10: Do you have suggestions for the definition of pay day loan**

**shops, or on the type of activities undertaken, that the regulations should**

**capture?**

London Councils welcomes the government’s proposal to specifically define payday loan shops in the Use Class Order. We believe its current absence to be a significant anomaly which prevents boroughs from adequately managing the proliferation of such premises in the interests of their communities.

However, some activities that may be defined as ‘payday lending’ are currently undertaken as a sideline within units whose principal function is A1 retail. London Councils would not want A1 uses to be undermined by this. London Councils would therefore support a definition of payday loan shops which incorporates only those units specifically being used for payday lending or associated activities such as cash for gold.

**Question 2.11: Do you agree that there should be permitted development rights for (i) A1 and A2 premises and (ii) laundrettes, amusement arcades/centres, casinos and nightclubs to change use to restaurants and cafés (A3)?**

London Councils would not object in principle to this proposal, subject to particular safeguards. A3 restaurants and cafés can make a significant contribution to the vitality and vibrancy of high streets and town centres. Where existing A1 and A2 uses may be more viable as A3 premises, conversions should not be resisted.

However, A1 retail policies exist in many locations to support local spending and business investment by encouraging footfall. The loss of A1 to other uses without adequate safeguards risks the viability of the daytime economy in many high streets and town centres. We would therefore propose that this permitted development right be subject to a prior approval process , enabling boroughs to consider the economic impact of the loss of A1 and A2 uses before granting approval.

This would ensure that policies around A1 protection were not undermined. A prior approval should also be introduced to enable boroughs to consider specific impacts such as noise. This will enable boroughs to take account of the different use patterns of restaurants and cafés. Such a provisions would ensure that boroughs retain the power to support the growth and diversification of high streets in a way which is suited to local communities.

**Question 2.13: Do you agree that there should be a permitted development right for an ancillary building within the curtilage of an existing shop?**

This proposal is intended to support and facilitate the growth of ‘click and collect’ services, reflecting changing retail habits among consumers. London Councils supports the diversification of high streets and town centres to ensure future sustainability. However, the proliferation of ‘click and collect’ services can have certain impacts – for example on traffic and town centre footfall – which should be managed through the planning process.

The introduction of ‘click and collect’ services to retail units can effectively act as a partial change of use, as they cater for a different type of consumer activity – the collection of pre-ordered items rather than direct retail purchases. Such activity is less likely to be beneficial to high streets and town centres, and it is therefore appropriate that planning powers regarding ancillary buildings are retained at a local level. London Councils does not therefore agree with this proposal.

**Question 2.16: Do you agree that parking policy should be strengthened to tackle on-street parking problems by restricting powers to set maximum parking standards?**

London Councils strongly opposes the proposal to restrict powers to set maximum parking standards. Such an approach would fly in the face of the government’s localist agenda by centralising powers on a matter where sensitivity to local context is paramount. In London, public transport accessibility and usage is considerably higher than elsewhere in the UK and there are therefore development locations, particularly in inner London, where maximum parking standards may be considered appropriate by boroughs in order to encourage sustainable forms of transport and reduce congestion and pollution. Where appropriate, maximum parking standards may also encourage the more efficient use of land and therefore enable higher-density development.

Elsewhere in London, where lower population densities prevail and public transport accessibility may be lower, boroughs may consider it more appropriate to set minimum parking standards. Most importantly, this should be a decision that is made locally, in response to local circumstances.

London Councils notes that, in his recent response to the consultation on the Mayor’s Further Alterations to the London Plan, then-Planning Minister Nick Boles MP stated:

“The government abolished national planning policy guidance that required councils to limit car parking provision for new residential development in 2011. These policies unfairly penalised drivers and could lead to poor quality development and congested streets. The government believes that local authorities are best placed to ensure parking provision is appropriate to the needs of the proposed development.”[[3]](#footnote-3)

London Councils would urge the government to abide by these principles and to reject any notion that powers to set parking standards should be centralised in Whitehall.

**Question 2.24: Do you agree (i) that where prior approval for permitted development has been given, but not yet implemented, it should not be removed by subsequent Article 4 direction and (ii) should the compensation regulations also cover the permitted development rights set out in the consultation?**

London Councils does not support the weakening of the Article 4 provisions in these respects. The government has repeatedly stressed that Article 4 is a valid tool to use to ensure the protection of strategic office locations and other employment sites. If the government takes this view, it should also accept the principle that all premises within the designated area should be covered by the Direction. It is illogical to enable boroughs to take measures to ‘protect the amenity and wellbeing of the area’ and then to exclude specific premises in those areas.

Such a proposal would also act against accelerated housing delivery by discouraging the prompt conversion of office properties to residential use. It therefore risks undermining the government’s stated objective to use the permitted development rights to support new homes.

For the same reasons, we would oppose amendments to the compensation regulations which also discourage developers from accelerated delivery, and the proposal to extend the expiry of the existing permitted development rights to 2019. If the government is serious about supporting new homes it should consider mechanisms to incentivise prompt conversions to residential use. This may include stricter time limits or the imposition of equivalent council tax charges from a specific date after prior approval has been granted.

**Section 3. Improving the use of planning conditions**

**Question 3.1: Do you have any general comments on our intention to**

**introduce a deemed discharge for planning conditions?**

London Councils recognises the need for timely discharge of planning conditions, but is concerned that the government’s proposals on deemed discharge may undermine the planning system and thus the delivery of new development.

Most notably, a deemed discharge acts as a disincentive for developers to work with local communities and their elected representatives. Instead, developers may feel able to bring in premature applications in the knowledge that poorly-resourced planning departments may not be able to discharge the conditions in the statutory timeframe. This risks the introduction of poor-quality development with no support or engagement from local communities.

If such a condition were to be introduced it should be accompanied by proper resourcing for borough planning departments, including full cost recovery on planning fees. This would include a proper fee rate for planning condition discharge.

**Question 3.3: Do you agree with our proposal that a deemed discharge**

**should be an applicant option activated by the serving of a notice, rather**

**than applying automatically? If not, why?**

Yes. This is an important safeguard to the government’s proposals and allows at least some sensitivity to relevant site-specific context. This may include consideration of whether the applicant is undertaking negotiations with the local planning authority at the point that the condition becomes eligible for deemed discharge.

**Question 3.5: We propose that (unless the type of condition is excluded)**

**deemed discharge would be available for conditions in full or outline (not**

**reserved matters) planning permissions under S.70, 73, and 73A of the Town**

**and Country Planning Act 1990 (as amended).**

**Do you think that deemed discharge should be available for other types of**

**consents such as advertisement consent, or planning permission granted**

**by a local development order?**

No, for the reasons set out in answer to question 3.1.

**Question 3.12: Do you agree there should be an additional requirement for**

**local planning authorities to justify the use of pre-commencement**

**conditions?**

No. Boroughs are already sharing best practice in areas such as this. Imposing a requirement to justify such directions is an unnecessary centralist directive which will only make it more difficult for boroughs to support development which meets local plan policies.

**Section 4. Planning application process improvements**

London Councils supports all of the proposals in this section concerning the changes to thresholds for consulting statutory bodies on planning applications. While these bodies can act as important guarantors of environmental sustainability, heritage protection and highways issues, we believe that on smaller applications boroughs are best placed to consider such matters in a local development context.

Where these bodies may need to be consulted boroughs will retain the discretion to do so and we believe this discretion should be exercised at a local level, rather than determined centrally.

1. *The London Housing Challenge*, London Councils <http://www.londoncouncils.gov.uk/London%20Councils/HousingInvestmentconferencepaper.pdf> [↑](#footnote-ref-1)
2. *DCLG expects only slight rise in office conversions following rule change*, Planning Magazine, 10 May 2013 [↑](#footnote-ref-2)
3. Letter from Nick Boles MP to Boris Johnson, 11 April 2014, <https://www.london.gov.uk/sites/default/files/002DepartmentofCommunitiesandLocalGovernmentResponse.pdf> [↑](#footnote-ref-3)