

# MUNICIPAL YEAR 2010/2011 REPORT NO. 123

**MEETING TITLE AND DATE:**  
**PLANNING COMMITTEE**  
23<sup>rd</sup> November 2010

**Agenda – Part: 1**

**Item: 13**

**REPORT OF:**  
Assistant Director,  
Planning & Environmental  
Protection

**Subject: Communities and Local  
Government Consultation Document on  
Planning and Schools**

**Wards: All**

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## **1. EXECUTIVE SUMMARY**

1.1 This consultation document, invites views on the Government's proposals to make changes to the General Permitted Development Order (GPDO) to give a permitted development right for change of use planning permission for schools development. The purpose of the proposals is to support the Department for Education's policy on new free schools. The expiry date of the consultation exercise is the 10<sup>th</sup> of December

## **2. RECOMMENDATIONS**

2.1 That the response to the consultation document be agreed by Members and forwarded to the CLG

## **3. BACKGROUND**

3.1 This consultation document looks at the changes proposed to the Town and Country Planning (General Permitted Development) Order 1995 (as amended), which the government aims at freeing-up the planning system in relation to schools development. The Secretary of State for Communities and Local Government made a statement to the House of Commons on 26 July 2010 outlining the importance of establishing new free schools and making clear that in considering 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 Use Classes Order to reduce

unnecessary regulation and make it easier for buildings currently in other uses to be converted to schools. This consultation will only 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.

#### **4. LEGAL BACKGROUND AND CURRENT PLANNING FRAMEWORK**

- 4.1 Under the Town and Country Planning Act 1990, development control extends not only to building work but also to changes in the use of buildings or land. Planning permission is usually required for material changes of use. What constitutes a material change of use is a matter of fact and degree, to be determined in each case by the local planning authority.
- 4.2 The Town and Country Planning (General Permitted Development) Order 1995 (as amended) provides further flexibility by classifying certain moves between the use classes as permitted development, which similarly does not require express planning permission. The current Use Classes Order places non-residential education and training centres within the D1 class alongside a number of other non-residential institutional uses. There is no permitted change either to or from class D1 to another class. There are a number of buildings that could already be used as schools without the need for a planning application. These are the uses included alongside schools in the D1 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.

#### **5. OPTIONS FORWARDED**

- 5.1 The consultation paper outlines 4 options for consultation. These are listed below:
- 5.2 **Option 1: Retain the current planning framework and make no changes to the planning system**
- 5.2.1 Under this option, no changes would be made to the current planning system. There is already a good stock of buildings, categorised alongside schools within the D1 use class, that could become schools without the need to apply for planning permission
- 5.3 **Option 2: Give a permitted development right for *some* uses to convert to school use**
- 5.3.1 In considering the current classifications within the Use Classes Order,

The consultation paper argues that there are a number of other uses that could be seen to have similar impacts upon a local area as a school because they: generate a certain amount of daytime activity (i.e. people travelling to and from the location); run the risk of additional traffic and pressure on local parking; and create associated impacts relating to noise, litter and the need for public transport. The Consultation paper therefore proposes that the following uses be given permitted development right to convert to a school use:

- *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 sport and recreations (except for motor sports, or where firearms are used).

#### 5.4 **Option 3: Give a permitted development right for *all* uses to convert to a school use**

5.4.1 The Government recognises that the impacts of a school on a neighbourhood may differ from those of other uses but wishes to create the freedom for innovative and creative schools development and to that end, is seeking to broaden the potential stock of available

accommodation for schools as far as possible. This option the government argues would achieve that objective by extending the permitted development right for school use to all uses.

5.4.2 The Government also recognises that there are some uses that would be impracticable to be used as a school, without development that would trigger the need to apply for planning permission.

5.4.3 This option offers maximum flexibility for those intending to set up a school, in their search for premises. The government wish to make it easier for school promoters to take advantage of existing properties that have much to offer without the need for costly new development. This would mean that, in addition to the uses set out in option 2, the Government in this option is also considering giving a permitted development right to become a school to the following types of development:

- *A3 Restaurants and cafés* - For the sale of food and drink for consumption on the premises - restaurants, snack bars and cafés.

- *A4 Drinking establishments* - Public houses, wine bars or other drinking establishments (but not nightclubs).

- *A5 Hot food takeaways* - For the sale of hot food for consumption off the premises.

- *B2 General industrial* - Use for industrial process other than one falling within class B1 (excluding incineration purposes, chemical treatment or landfill or hazardous waste).

- *C3 Dwellinghouses* - this class is formed of 3 parts:

- C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.

- C3(b): up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.

- C3(c) allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger.

*-C4 Houses in multiple occupation* - small shared dwelling houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.

5.4.4 This option proposes that the permitted development right will cover sui generis uses (sui generis uses are those uses which do not fall within a use class in the Use Classes Order such as casinos and nightclubs).

5.5 **Option 4: Give a permitted development right, with attached conditions, to *all* uses to convert to a school use**

5.6 Option 4 seeks to offer the same freedoms to school providers as option 3, by extending the permitted development right to all uses (including sui generis uses), but would in addition provide safeguards within the planning system against any adverse impacts that might result from transport impacts. However, the government within the consultation paper acknowledges that this option could result in an inbuilt delay - while the travel assessment is considered - which could impede school development.

5.7 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. The conditions could require the school promoter to assess important matters such as road safety and car parking, transport accessibility and traffic generation, as illustrated in the annexed draft statutory instrument. The use of conditions will however build into the system unavoidable delay as the local planning authority considers the transport assessment

## 6. **DISCUSSION OF OPTIONS**

6.1 The detailed draft answers to the CLG's standard questions are included within Appendix A in the draft response sheet at the end of this report. However concerns are raised about the implications of three of the four options and it is felt that the current planning regime adequately assesses educational proposals which include a robust consultation exercise. Therefore Option 1 which proposes the retention of the current regime is supported

6.2 The planning system plays a very important function in mediating between the needs of education providers, different community aspirations and legitimate local concerns about school developments. Accordingly, the proposed changes in the use classes order as set out in option 2,3 and 4 to automatically permit certain existing buildings to be converted to school use is problematical. It will deny the people

what they see as their legitimate right to challenge the acceptability of a school development. It could also lead to unintended consequences

- 6.3 The London Borough of Enfield seeks to support local communities having a say over their own future and would want proposals for schools to be in accord with local and neighbourhood plans, otherwise issues such as infrastructure provision, noise, light pollution and traffic management could be totally ignored. The strong policy presumption in favour of school proposals as outlined in the Ministerial Statement can be taken on board in determining applications and can be further strengthened the Statement by incorporating it in national policy. The London Borough of Enfield consider that the planning system plays a valuable role in ensuring schools are appropriately located and meet community needs without undue disturbance to the local neighbourhood, the Council feels that taking this control away would disadvantage local communities to be consulted on developments which will have a considerable impact on their quality of life.
- 6.4 Local councillors at Enfield frequently have to respond to angry residents being frustrated by school traffic congestion and the impact of schools on neighbourhood amenity. Local residents often feel noise and flood lighting of games areas as unwelcome intrusions. This can be exacerbated by out of school hours community use of school facilities. Schools by their very nature result in intensive vehicular movements at set times of the day (i.e morning drop off and afternoon pick up of children). The Authority feels that it would be unfair for local residents to be denied the opportunity to object to new schools as the impact on their amenities with the possible high increase in cars and on street parking could be considerably higher than encountered were the existing use of the premise properties remain. Schools, in particular primary schools have the propensity to generate considerably higher vehicular movements during the early morning and late afternoon than the other land uses listed above. Apart from the highway safety and detrimental impact of noise on residents, many would feel that the initiative would run contrary to the Coalition government's localism agenda as it would deny local residents the opportunity to object or be consulted on developments which they would have previously had the opportunity to do so.
- 6.5 There are a complexity of communities that have different stakes in school developments. The ambitions of one community be it geographic, ethnic or faith based may not be shared another one which might host a school. It should not be viewed that school developments automatically have consensual community support. Indeed applications for new schools can generate hundreds of objections from the local community.
- 6.6 Local Authorities would also be expected to pick up local resident's concern over noise and traffic generated by new schools when no comprehensive transport or noise assessment was carried out

beforehand. Whilst option 4 does include such an assessment it does not include provisions to consult with local communities.