

<b>Subject:</b>	<b>Application for Exemption from Office to Residential Permitted Development Rights</b>		
<b>Date of Meeting:</b>	<b>7 March 2013</b>		
<b>Report of:</b>	<b>Director of Place</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Helen Gregory</b>	<b>Tel: 29-2293</b>
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE**

**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 The government is introducing in Spring 2013 a new permitted development right to allow change of use from office (B1a) to residential use without requiring planning permission. It is proposed that in response, the city council submits a case for exemption from this permitted development right in identified areas of the city due to the impact on businesses and jobs in the city. This report seeks endorsement of the application that was submitted to the Secretary of State to meet the government's deadline of 22 February.

**2. RECOMMENDATIONS:**

- 2.1 That the Committee approves and endorses the area specific application and case made for exemption from office to residential permitted development rights that has been submitted to the Secretary of State to meet the required deadline.

**3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

**Context**

- 3.1 In April 2011 the Government Department for Communities and Local Government published a consultation paper entitled 'Relaxation of planning rules for change of use from commercial to residential'. The consultation sought views on the Government's proposals to amend the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (the GPDO) to grant permitted development rights to changes of use from commercial to residential uses.
- 3.2 Current legislation allows change of use without needing planning permission where both the existing and proposed uses fall within the same Use Class. These are formally defined in the Town and Country Planning (Use Classes) Order 1987 (as amended). Planning permission is normally needed for change of use between the defined use classes. However, under the GPDO a number of changes of use are allowed without needing planning permission and these are known as permitted development rights.

- 3.3 A response to the consultation, agreed at the Cabinet Member Meeting in July 2011, was submitted to the Secretary of State outlining in detail the case that the disadvantages and problems arising from the proposal would outweigh any benefits. These concerns include:
- harmful impact on the local economy – availability of office space to small and medium sized businesses and loss of affordable business space;
  - impact on an effective planning system to ensure a balance of uses;
  - contrary to Localism;
  - quality of life and amenity issues; and
  - inability to secure affordable housing from this type of development.

The 2011 detailed case is set out in appendix 1 along with the details of concerns made by the Economic Development Team.

- 3.4 On 24 January 2013 the Secretary of State announced that the government will introduce in Spring 2013 new permitted development rights, including a change to enable change of use from offices (B1a) to residential (C3) without the need to apply for planning permission for a period of at least three years. Towards the end of the three years consideration will be given as to whether they will be extended indefinitely. The only consent the local planning authority would need to give relates to a small number of prior approval matters, namely where there are significant transport and highway impacts, or where the development would be in areas of flood risk, contamination or safety hazard zones. The government see this measure as an important contribution to assisting the economic well-being of the country.
- 3.5 However in advance of the introduction of the new permitted development rights local planning authorities have been given a one-off opportunity to seek an exemption for a specific area. Guidance in the letter sent to Chief Planning Officers indicates that requests for exemptions will be considered but will only be granted in exceptional circumstances where it is demonstrated that the new rights 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.
- Requests for exemptions had to be submitted to CLG by 22 February 2013.

### **Potential Implications**

- 3.6 The permitted development rights would apply to all types of B1a accommodation: offices above shops, town centre offices, standalone offices, modern purpose built office accommodation, offices within Listed Buildings, office accommodation within industrial estates.
- 3.7 Whilst the proposals suggest that the provision will only apply to vacant and under-used properties, it is not clear how this will be defined or operate in

practice with respect to existing viable, occupied office space. If a general permitted development right is introduced which allows change of use from B1a offices to C3 residential this will operate irrespective of whether an office building is occupied, part occupied or vacant.

3.8 It is considered that a blanket city wide application of these permitted development rights could have a substantial adverse economic consequence at the city and the wider city economy in terms of business competitiveness, jobs growth, undermining investment in business space and in particular harmful impact on the burgeoning growth sectors which are not offset by the positive benefits the new rights would bring. In particular concerns relate to:

- Up to date evidence in the 2012 Employment Land Study Review which indicates both qualitative (business need) and quantitative (forecast) shortfall of office accommodation that the City Council is currently seeking to help address through the new City Plan.
- The particular local market characteristics – a shortage of available office space (below the national and regional averages) and in particular Grade A accommodation in the central Brighton area.
- The real risk that unmanaged loss of office space could undermine the attractiveness of central Brighton as an office location and as a creative digital cluster in particular, with few alternatives elsewhere in the city.
- The loss of economic space currently occupied by local businesses/start – up companies who need affordable rents and short leases, that may consequently be displaced from the city.
- The issue that until there is significant delivery of new office space, the city's aspirations to improve the quality and productiveness of the local economy would be undermined by the loss of existing office accommodation in an uncontrolled manner.

3.9 Both Central Brighton and New England Quarter and London Road area contain a unique character, mix of uses, very good transport connections, social infrastructure and informal networking opportunities which make them very attractive places to locate. These factors and the concentration of affordable workspace in older office/ commercial buildings are the main reasons the Creative Digital and Information Technology cluster can be found in these areas. Furthermore the council has been successful in securing government funds to support this sector in this location; the successful bid for round two of the Super Connected Cities Programme and Coast to Capital LEP funding for the 'Block J' Innovation Centre. The City Plan proposals for new employment floorspace in the DA4 New England Quarter and London Road area suitable for start up and move on accommodation for this sector would be put at risk. Any significant loss of office space in this area would have adverse effects on the local economy and particularly the CDIT sector which is currently growing at over twice the national average.

### **Case for Exemption**

3.10 For the reasons set out above it is considered essential that the city makes a strong case for exemption for:

- Central Brighton Office Area and the New England Quarter and London Road Area;
- Those strategic allocations and identified employment sites in the City Plan where significant clusters of office accommodation exist or those sites identified in the City Plan to bring forward new office accommodation to meet the identified shortfall of office floorspace.

The boundaries of these areas are set out on the maps included within the case for exemption in appendix 2 to this report (see appendix 1 of the Supporting Evidence Report) and reflect the area/ site boundaries in the recently agreed Submission City Plan Part 1. It should be noted that the City Plan's managed approach to allowing redundant offices to change use would still apply in Central Brighton if an exemption area was permitted.

- 3.11 The guidance requires local authorities to provide evidence to justify an exemption. Requests have to be accompanied by a map clearly defining the area/s to be exempted and by a detailed description of the adverse impact anticipated and a clear demonstration as to both how the introduction of these permitted development rights will lead to this impact, and why the particular area should be exempted making reference to supporting evidence where appropriate.
- 3.12 The city council's case for exemption, prepared by consultants Nathaniel Lichfield & Partners is set out in full in appendix 2. The Supporting Evidence Report includes:
- scale of the adverse impact;
  - the significance of the adverse impact at the level of the local authority or wider;
  - the degree to which there is likely and be a strategic and long term adverse economic impact; and
  - evidence that the proposed area of exemption is the smallest area necessary to address the impact.
- 3.13 In terms of other areas of the city, the impact of the office to residential permitted development rights will be monitored over the next three years. In addition, other measures, such as an article 4 direction (non-immediate - to remove this permitted development right), will be considered for areas where there are concerns regarding loss of employment floorspace. This would be subject of a separate report.

#### **4. COMMUNITY ENGAGEMENT AND CONSULTATION**

- 4.1 The report has been prepared in consultation with the Economic Development Team.
- 4.2 The Coast to Capital Local Enterprise Partnership, the Brighton & Hove Economic Partnership and Wired Sussex have been consulted and support the city council's application for exemption. Local commercial agents approached

about the council's proposed exemption case whilst in agreement about the need for quality new office accommodation in central Brighton and the need to protect purpose built modern offices have been less supportive about seeking an exemption and were broadly supportive of some greater freedom for change of use of poor quality, poorly located offices. They also expressed mixed views with the government's proposal for a blanket change of use.

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 5.1 At this stage it is very difficult to estimate the potential implications arising from the recommendations in this report. There have been officer time and consultancy costs incurred in preparing an exemption case and these have already been met from within the Planning Strategy revenue budgets. When the permitted development rights come into force there is likely to be a financial impact on the Planning service in terms of reduced planning application fees although it is not possible to accurately quantify this. It should be noted though that there will be a need for legal certification of the use changes. The council can charge for this but the fees are set nationally at 50% of the planning fee and the amount of work involved is expected to be similar. In addition it is not clear if planning fees for change of use applications will be waived in exempt areas.

*Finance Officer Consulted: Jeff Coates*

*Date: 21/02/13*

### Legal Implications:

- 5.2 The legislation relating to permitted development rights is set out in paragraphs 3.1 and 3.2 of the report. As stated, the proposed permitted development right would allow a change of use from office to residential use without the need to apply for planning permission, although in some limited circumstances, as set out in paragraph 3.4, prior approval to a certain aspect of the change of use would need to be obtained. Should the case for exemption be successful a change of use from office to residential within those identified areas would require express planning permission.

It is not considered that any adverse human rights implications arise from the report.

*Lawyer Consulted: Hilary Woodward*

*Date: 08/02/13*

### Equalities Implications:

- 5.3 The proposal will help to address the need to retain affordable office space within the identified areas, it will help businesses and protect jobs; and where loss of offices is considered acceptable will allow for an element of affordable housing to be secured.

### Sustainability Implications:

- 5.4 The exemption will help with retention of jobs in accessible locations in the city and therefore reduce the need to travel by car.

Crime & Disorder Implications:

- 5.5 None identified.

Risk and Opportunity Management Implications:

- 5.6 Options for applying for an exemption and the geographical area that it covers have been considered and weighed up and based on evidence prepared to make the case for exemption.

Public Health Implications:

- 5.7 None identified.

Corporate / Citywide Implications:

- 5.8 The application for exemption will help to deliver the aims citywide and corporate strategies.

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 Options relating to whether to proceed with an exemption application or not have been weighed up. The decision to apply was based upon concerns relating to potential impact of office to residential permitted development rights on the supply of offices in key areas in the city and the impact it will have on the strategy underpinning the City Plan.
- 6.2 A number of options have been considered relating to the geographical area covered by the exemption application. The areas have been decided on the basis of the evidence provided and the requirement of the government to keep the area of exemption to 'the smallest area necessary'.

**7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 To enable protection of important and accessible office space, deliver the City Plan and protect businesses and jobs in the city.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Detailed response to consultation on the Government's proposal to Relax permitted development rights to allow for change of use from commercial to residential uses – July 2011.
2. Request for Office to Residential Permitted Development Rights Exemption – Supporting Evidence Report for Brighton & Hove – February 2013.

### **Documents in Members' Rooms**

1. None

### **Background Documents**

1. City Plan Part 1
2. Employment Land Study 2012
3. Economic Strategy

