

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	Meeting:	Cabinet Member for Regeneration and Environment
2.	Date:	13 th December 2010
3.	Title:	CLG Consultation Document – Planning for Schools Development
4.	Directorate:	Environment and Development Services

5. Summary

This report is in response to the Government's recently published consultation paper on Planning for Schools Development – the deadline for submission of responses was 10th December 2010.

6. Recommendations

That the Cabinet member notes the report and agree the responses suggested to each question.

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7. Proposals and Details

- 7.1 This consultation looks at the changes proposed to the Town and Country Planning (General Permitted Development) Order 1995 (as amended), which are aimed at freeing-up the planning system in relation to schools development.
- 7.2 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.
- 7.3 This consultation addresses that commitment to consult. It proposes changes that apply to all schools. They will affect only those developments that involve purely converting non-school buildings for school use. Where a school's 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.

7.4 This consultation paper seeks views on four possible options:

Option 1: Retain the current planning framework and make no changes to the planning system

Option 2: Give a permitted development right for *some* uses to convert to school use

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

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

7.5 The consultation document consists of 10 questions around the issues raised from each of the above options.

Q1. Do you think that the uses listed under option 2 should be given a permitted development right to convert to a school?
Please tick one box for each use

	Yes	No
A1 shops	<input type="checkbox"/>	<input checked="" type="checkbox"/>
A2 financial and professional services	<input type="checkbox"/>	<input checked="" type="checkbox"/>
B1 business	<input type="checkbox"/>	<input checked="" type="checkbox"/>
B8 storage or distribution	<input type="checkbox"/>	<input checked="" type="checkbox"/>
C1 hotels	<input type="checkbox"/>	<input checked="" type="checkbox"/>
C2 residential institutions	<input type="checkbox"/>	<input checked="" type="checkbox"/>
C2A secure residential institution	<input type="checkbox"/>	<input checked="" type="checkbox"/>
D2 assembly and leisure	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Q2. Do you think that the further uses listed under options 3 and 4 should be given a permitted development right to convert to a school?
Please tick one box for each use

	Yes	No
A3 restaurant and cafés	<input type="checkbox"/>	<input checked="" type="checkbox"/>
A4 drinking establishments	<input type="checkbox"/>	<input checked="" type="checkbox"/>
A5 hot food takeaways	<input type="checkbox"/>	<input checked="" type="checkbox"/>
B2 general industrial	<input type="checkbox"/>	<input checked="" type="checkbox"/>
C3 dwellinghouses	<input type="checkbox"/>	<input checked="" type="checkbox"/>
C4 houses in multiple occupation	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sui generis uses	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Q3. Should a use converting to a school for a temporary period retain the right to revert to the previous use if it does so within 5 years?

Please tick one box	⇒	Why do you say that?
Yes <input type="checkbox"/>		<p>Established principle of planning law is that if a material change of use occurs, then planning permission is required unless it is permitted development. The original use may not be the most appropriate for it's location and to revert back to that use may cause more harm. New development would not know if this was to occur and could be disadvantaged as to future development.</p>
No <input checked="" type="checkbox"/>		
Don't know <input type="checkbox"/>		

Q4. Would allowing the following uses to convert to a school use without the need for planning permission have any unintended consequences?

	Yes	No
A1 shops	<input checked="" type="checkbox"/>	<input type="checkbox"/>
A2 financial and professional services	<input checked="" type="checkbox"/>	<input type="checkbox"/>
B1 business	<input checked="" type="checkbox"/>	<input type="checkbox"/>
B8 storage or distribution	<input checked="" type="checkbox"/>	<input type="checkbox"/>

C1 hotels	<input checked="" type="checkbox"/>	<input type="checkbox"/>
C2 residential institutions	<input checked="" type="checkbox"/>	<input type="checkbox"/>
C2A secure residential institution	<input checked="" type="checkbox"/>	<input type="checkbox"/>
D2 assembly and leisure	<input checked="" type="checkbox"/>	<input type="checkbox"/>
A3 restaurant and cafés	<input checked="" type="checkbox"/>	<input type="checkbox"/>
A4 drinking establishments	<input checked="" type="checkbox"/>	<input type="checkbox"/>
A5 hot food takeaways	<input checked="" type="checkbox"/>	<input type="checkbox"/>
B2 general industrial	<input checked="" type="checkbox"/>	<input type="checkbox"/>
C3 dwellinghouses	<input checked="" type="checkbox"/>	<input type="checkbox"/>
C4 houses in multiple occupation	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sui generis uses	<input checked="" type="checkbox"/>	<input type="checkbox"/>

And if so, what are they?

The argument that a variety of uses within the existing D1 use-class can currently be converted to schools is not a reason to extend the principle to other use-classes.

It is not enough to assume that promoters will 'choose suitable buildings with appropriate access.' They have not got the experience that a local authority has of recognising the problems that can arise. Complaints, from parents and residents, occur at almost every school entrance and it is only through proper consideration and control, at the planning stage, that such problems can be kept to a minimum. Our experience of dealing with schools is that they have little interest in how pupils travel to school or how far they have to travel. This is regarded as purely a matter for parents.

Road safety issues, and the problems that are created, on the public highway, are seen as a matter for the local highway authority to solve. It is not enough to assume that '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. This rarely happens now and there are no guarantees that this situation will improve. The consultation does not adequately cover whether these schools need travel plans - only a 'transport assessment' is suggested. Without a Travel Plan there is no mechanism for mitigating the impacts of school traffic and travel. It would be unreasonable to treat 'free' schools any differently to other 'state' schools.

It is far from certain that free schools will reduce travelling distances. They

could just as easily increase travel distances contrary to government policy regarding sustainability. The availability of choice has led to pupils travelling greater distances to attend schools.

Allowing premises such as A1 shops and B2/B8 premises (factories/warehouses) to be changed without the need for planning permission is a concern since these can be very large premises with the potential to accommodate many pupils/staff e.g. former DIY stores etc. Public Houses can also be problem sites if parking/drop off areas are inadequate. Very recently, our Members refused a change of use of a public house to a children's nursery on highway safety grounds. It is not the type of premises that should determine use, but its location and overall suitability.

The implications of meeting the requirements of the Education Inspections Act and the duty of a local authority to promote (and provide) sustainable school transport are ignored. Will the LA be responsible for providing travel to 'free' schools or will this be the responsibility of the school and parents? The promotion of sustainable (non-car) travel to schools is intended to benefit pupils (better health, reduced obesity etc) as much as it is intended to address travel and traffic issues. It is not clear how free schools will address this.

If the Government consider that there should be a presumption in favour of the development of new schools this would be much better served through the introduction of a policy directive rather than a blanket permitted development allowance. Whilst Article 4 directions are available to the Local Authority to remove permitted development, policy statements would give a clear steer without removing the necessary scrutiny and public involvement that the submission of a planning application affords.

Q5. Should the local planning authority have to approve a transport assessment before the permitted development right can be activated for changes from some or all non D1 uses?

Please tick one box
Yes <input checked="" type="checkbox"/>
No <input type="checkbox"/>
Don't know <input type="checkbox"/>

⇒ Why do you say that?

To properly assess the impact

Q6. Do you think that there are any other matters that the conditions should address?

Please tick one box

⇒ Why do you say that?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

All material planning considerations

Q7. Should the compensation provisions contained in section 189 of the Planning Act 2008 be applied to change of use to a school, if a permitted development right is given?

Please tick one box	
Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>
Don't know	<input type="checkbox"/>

⇒

Why do you say that?

It should be for the Local Planning Authority to consider how the implications of these provisions would affect them and be able to control these through an Article 4 direction without fear of compensation claims.

Q8. The Government would like to permit schools to co-exist with certain dual uses, but not with other. Do you have views about whether and how this can be achieved?

Please tick one box	
Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

⇒

Why do you say that?

Q9. Which is your preferred option and why?

Please tick one box	
Option 1	<input checked="" type="checkbox"/>
Option 2	<input type="checkbox"/>
Option 3	<input type="checkbox"/>
Option 4	<input type="checkbox"/>

⇒

Why do you say that?

As per the answer given to question 4

Q10. Do you think these proposals should be applied solely to new free schools or to all schools? Why?

Please tick one box		⇒	Why do you say that? See above
Yes	<input type="checkbox"/>		
No	<input checked="" type="checkbox"/>		

Conclusion

It is considered that option 1 (retain the current planning framework and make no changes to the planning system) is the most appropriate course of action for the development of new schools.

There are a number of issues that need to be properly considered as part of the change of use of an existing building to a new school that cannot be adequately controlled purely by condition or restriction to such a degree that it would make any form of permitted development acceptable.

The current system is not overly cumbersome and affords a level of public involvement that would otherwise be removed if permitted development rights were given to allow those developments that involve converting non-school buildings for school use.

8. Finance

If the use classes order were to be amended and give permitted development allowances for those developments that involve purely converting non-school buildings for school use there would be an impact on the potential loss of planning application fees. Whilst it is unlikely that every proposal under the permitted development regime would have resulted in a planning application there could clearly be a loss of potential revenue albeit relatively small compared to the income from planning applications over 12 months.

Change of use applications currently attract a fee of £335 per application and, although it is difficult to quantify the likely number of applications we would receive if other Government incentives are introduced, this is not anticipated to generate income above £5,000 per annum.

9. Risks and Uncertainties

N/A

10. Policy and Performance Agenda Implications

N/A

11. Background Papers and Consultation

Planning for schools: Consultation by the CLG

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