

The Use Classes Order Debate

Jones Lang LaSalle's response – August 2011

The Government recently consulted on proposals to change the Use Classes Order (UCO). The UCO is the vehicle that provides flexibility to change between certain land uses without the need for planning permission. These draft proposals are part of the Government's attempts to remove planning burden from businesses and the wider development industry.

The draft proposals would allow a change of use without planning permission from office buildings (Class B1) to housing. To anyone involved in property, this new approach would have major implications.

The approach to our response

To canvas opinion from the property industry, we surveyed colleagues at Jones Lang LaSalle (excluding our town planners). The poll included investment advisers, property managers, project and building surveyors and members of the land team, all drawn from London and across the regions.

From this poll, some 72 per cent considered the changes a good idea

This support was assessed along with the comments received and it was apparent that the feeling was there should be some alternative prior to moving forward with this major and far-reaching change.

We suggested some form of 'prior approval' procedure to obtain certainty as to whether a change from offices to housing would be granted. Linked with this, we encouraged the Government to explore a new planning output. We called them 'Statements of Development Principles' (SDPs).

SDPs were considered some years ago at Government level. We consider that this approach could be explored again as a 'halfway house' for Class B1 buildings and their conversion to housing. A period of 5 weeks would be allowed for the 'prior approval' process, ending with councils issuing an SDP. The SDP would set out the key design aspects to be addressed in any planning application.

This would represent a step forward for applicants and developers without incurring significant upfront costs; they could then devote more resources (and submit a planning application) knowing that permission would be granted – a sort of Reserved Matters application based on the SDP.

The Government's draft proposals

We considered that the main problem with the full UCO proposed changes was that it granted a permanent right for a temporary problem (housing shortage). We feared for the impact right now, but moreover for what could happen in the future.

The failing in housing supply could mean that the Government could be setting up a wave of activity that it will not be able to stop. Commercial areas (good as well as bad) could be simply blown away as landlords change buildings to housing. Our suggestion also encouraged a national policy directive supporting such changes of use.

The detail

The availability of these rights to the wider Class B1 use category also caused us some concerns. This is because it would mean that buildings could convert to housing where they are in research and development use as well as light industry. Class B2 buildings (general industry) which have existing planning rights to change to light industry (Class B1) would also be a beneficiary. This is where possible 'unintended consequences' could start.

Companies as large occupiers could be faced with significant uncertainty as landlords seek to manipulate the system. Uncertainty would result in terms of security of tenure, potentially where it was not intended.

Many architects have observed that Class B buildings do not lend themselves to residential conversion, but the risk is that where implemented, they could compromise design quality objectives.

Area impacts

Clearly some local authorities would be more concerned than others. The views of the City of Westminster and the Corporation of London will be heard above others, although for different reasons. We suspect that most authorities would support the Government's suggestion of an 'opt out' to the draft changes should they be faced with these coming into force.

Mixed use areas would change in areas of high residential values, with residential becoming the dominant driver at the expense of office use. In fringe or marginal areas of the commercial cores there could see a transition to mixed fringes, but all without managing the change through the planning system.

The impacts are unlikely to be temporary. Once changes have been made to housing it is very rare that buildings return to employment generating use again. Buildings and areas transferred to housing would not come back.

We did not support the new powers being available to general industry principally because we believe that these buildings are usually in locations that might not be suited to housing or they would give rise to 'residential islands'.

Unintended consequences

The Government's analysis was very short in terms of potential effects upon landlords and tenants. The proposals could have implications for tenants who have signed long leases with development break clauses or where there was every intention or likelihood that new leases would be granted. The effect of this legislation would be that changes of use could occur least where intended, and mostly where they are not needed.

Office and business rents could also increase on the basis that the business building would be capable of being used for housing as an alternative use. This would be a serious burden to businesses in this tight economic period. Inevitably, there would also be an impact on the value of employment buildings, as cherry picking would take place.

If you would like to discuss any of the above or any other Planning issues, please feel free to contact

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