

## RETAIL TO RESIDENTIAL: NEW PERMITTED DEVELOPMENT RIGHTS

### The new rights

Following on from legislation earlier this year introducing permitted development rights allowing change of use from **offices to residential** the Government has published Consultation entitled *Greater Flexibilities for Change of Use*. This proposes the introduction of new permitted development rights for a range of town centre uses.

At the core of this Consultation is the proposal to introduce permitted development rights which would allow the change of use of a building from **shop (A1) or financial and professional services (A2) to residential (C3) use**, including any associated physical development necessary for the conversion to this use, without the requirement to obtain planning permission.

### Limitations on the new rights

There are the following limitations which will apply to the new rights:

- There will be an upper threshold of 150 sq m
- The conversion must be to a single dwelling house or a maximum of four flats, but not to a small House in Multiple Occupation (HMO)
- The rights will not apply to article 1(5) land (i.e. Conservation Areas, National Parks, Areas of Outstanding Natural Beauty, the Broads and World Heritage sites)
- The rights will not apply to listed buildings and scheduled monuments, buildings within Sites of Special Scientific Interest, safety hazard zones and military explosives storage areas

- The rights will not apply to development where an environmental impact assessment is required

### Prior approval

The new rights will be subject to the prior approval of the Local Planning Authority (LPA) which is entitled to consider the following:

- The design of the associated physical development to ensure this complies with local plan policies on design, material types and outlook
- The potential impact of the loss of the A1/A2 use on the economic health of the town centre, the need to maintain an adequate provision of essential local services such as post offices, and the potential impact of the change of use on the local character of the area

The above process will allow an LPA to take account of the policies within their local plans and these plans will set out the primary retail areas and wider retail hierarchy, as required by the National Planning Policy Framework.



### Other new rights

Apart from the new rights allowing a change from A1/A2 to residential use, the Consultation also proposes new rights allowing the following changes of use:

- Change of use of a shop (A1) to a bank or a building society
- Change of use of an existing agricultural building to residential use (C3)
- Change of use of premises used as offices (B1), hotels (C1), residential (C2 and C2A), non-residential institutions (D1), and leisure and assembly (D2) to nurseries providing childcare
- Change of use of an existing agricultural building of up to 500 sq m to a state funded school or nursery providing childcare

### Timing and other implications

The Consultation closes on 15<sup>th</sup> October 2013 and the Government expects to introduce the new rights in April 2014.

According to the Government, the changes proposed in the Consultation will help to make better use of existing buildings, support rural communities and high streets and provide new housing.

Clearly these new rights will have the benefit of introducing more flexibility to utilise existing buildings, however, there are already several limitations attaching to these new rights proposed by the Government, and as with the new permitted development rights introduced earlier in the year for a change from office to residential use, we await the legislation to see whether there will be further limitations imposed on these new rights.

There is also the reaction of LPAs to consider. Most LPAs were strongly opposed to the introduction of the office to residential permitted development rights and we may see a similar reaction.

The prior approval process may provide no more certainty to a developer than a planning application as LPAs can similarly refer to policies within their local plans as a basis for refusing prior approval. LPAs will also have the power to make Article 4 Directions which can withdraw the application of the new rights to designated areas.

Given these limitations and difficulties, we are sceptical as to whether the new rights will have the substantive impact intended by the Government, particularly in terms of increasing housing supply.



*For more information, please contact  
Chad Sutton, Planning Partner at Maples  
Teesdale LLP on 020 3465 4340 or  
[csutton@maplesteesdale.co.uk](mailto:csutton@maplesteesdale.co.uk)*