

Planning for schools development

Consultation





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Consultation

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Summary

Scope of the consultation

Topic of this consultation:	Planning for schools development.
Scope of this consultation:	The consultation is to consider whether classes of development within the Town and Country Planning (Use Classes) Order 1987 (as amended) should be given permitted development rights to change use to a school; and if so, which classes should have that right attached to them.
Geographical scope:	The proposals relate to England only.
Impact Assessment:	A consultation stage impact assessment is attached to this consultation document.

Basic information

To:	This is a public consultation and it is open to anyone to respond. We would particularly welcome views from: <ul style="list-style-type: none">• local planning authorities• school promoters• community representatives.
Body/bodies responsible for the consultation:	Communities and Local Government (Planning Development Management Division).
Duration:	The consultation is published on 14 October 2010 and ends on 10 December 2010. This is an eight week period.
Enquiries:	Sharmila Meadows Tel. 0303 44 41673 e-mail: sharmila.meadows@communities.gsi.gov.uk
How to respond:	By e-mail to schools@communities.gsi.gov.uk . A downloadable questionnaire form, which can be emailed to us, will be available on our website at: www.communities.gov.uk/consultations Alternatively, paper communications should be sent to: Sharmila Meadows Schools Team Planning Development Management Division Communities and Local Government 1/J3, Eland House Bressenden Place London SW1E 5DU

Additional ways to become involved:	This is a written exercise.
After the consultation:	A summary of responses will be published.
Compliance with the Code of Practice on Consultation:	The consultation complies with the code. A shortened consultation period is required to offer sufficient time following any changes to the requirements for planning permission for school promoters to obtain properties that can be operational from September 2011 – in line with the Government's commitment that new free schools will begin to operate in the 2011-12 academic year.

Background

Getting to this stage:	The current planning framework is contained in the Town and Country Planning (Use Classes) Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) Order 1995 (as amended).
Previous engagement:	<p>The Coalition Government's <i>Programme for Government</i> made a commitment to give parents, teachers, charities and local communities the chance to set up new schools. The Conservative Party's 'Open Source Planning' Green Paper outlined its proposals for the planning system to help facilitate the delivery of schools.</p> <p>A statement for supporting free schools development through the planning system was made to Parliament on 26 July.</p> <p>The Academies Act 2010 received Royal Assent on 27 July.</p>

Introduction

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.
2. The Secretary of State for Communities and Local Government made a statement to the House of Commons on 26 July 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.
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 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.

Policy background

4. The Coalition Government is committed to decentralising power and delivering a planning system which puts local communities in control. This means devolving decision-making to local councils and going further by devolving power and opportunity down to the community groups, neighbourhoods and individual citizens they serve.
5. The free schools policy is an example of the Big Society in action. It empowers individuals to come together to improve educational choices for children in their local community.
6. The Secretary of State for Education has announced his proposals for new free schools. Teachers, parents and charities will have much greater freedom to set up schools which respond to local needs. We want to encourage competition and innovation to address the imbalance of opportunity in education and to enable schools to develop their own identity. Our approach will increase choice and drive up standards across the country and provide real opportunity to transform the lives of disadvantaged children.
7. We want to make it easier for promoters of new schools to find existing buildings that can be easily adapted for school use – and when they do so, to facilitate that change of use by removing any unnecessary red tape.
8. A new school is likely to have a range of benefits for the local community. The Government will allow free schools to open where there is clear local demand for a good new school. These schools will therefore be a response to the needs of the community for more choice and to drive up standards of education. The whole community can also be given access to any additional facilities provided by the school, like sports facilities.
9. The changes proposed in this document relate to change of use planning permission only and so, they will affect only those developments that involve purely converting non-school buildings for school use. Where a schools development requires any additional work to an existing building or is a new build development, planning permission will be required in the normal way.

Legal background and the current planning framework

10. 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.

11. Certain uses are so similar in planning land use terms that to require planning permission to change might be considered unnecessarily burdensome. To relieve the planning system of such unnecessary applications, the legislation excludes from the definition of development any change where both the existing and the proposed use falls within the same class within the Town and Country Planning (Use Classes) Order 1987 (as amended).
12. 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.
13. 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.
14. The Use Classes Order is concerned about land use impacts. As such, these proposals relate to all changes of use to a school and not simply those buildings to be used for new free schools.
15. We are seeking views as to whether the scope of the proposals should be restricted.

Key matters for consideration

16. The Government is keen to free up the planning system. It wants to allow local people to make decisions about where their schools can operate and expects them to choose suitable buildings with appropriate access. It does not believe that it is necessary or desirable to regulate development where there is genuinely no need to do so and where it runs the risk of stifling important progress; in this case in the provision of new schools. Greater freedoms will also encourage the more efficient use of land and buildings within the planning system.
17. The Government recognises that the planning system plays an important role in ensuring that development comes forward, is delivered at suitable locations, in a manner that benefits local communities and that adverse impacts can be successfully mitigated. The system also offers local people the opportunity to participate in the development process through the public consultation that accompanies planning applications.
18. Planning officers are able to consider a variety of matters regarding schools development, such as the suitability of the proposed site to ensure that a school is not established at inappropriate or dangerous locations. They can also use planning controls to alleviate any concerns regarding traffic and road safety issues through the use of planning conditions or obligations. The Government is aware that by granting a permitted development right, a number of issues will not be routinely considered within the planning framework, which could affect a range of matters, as discussed below.
19. However, it is our aim to ensure that all unnecessary regulation is removed from the system and that good quality proposals are not frustrated by the planning system. The free schools programme is intended to set up schools where there is community demand, and it is with this in mind that the Government wishes to ensure that there are no unnecessary or bureaucratic hurdles that could hold back local ambitions and that the planning system cannot be misused as a way of frustrating the creation of new schools.
20. That does not mean that issues surrounding free schools development will not be considered. Before any school can be set up, the Government will consider a range of factors, including evidence of demand and plans for the proposed site and building.

Impact on neighbours and the surrounding area

21. The planning system recognises that the change of use of a building can have an impact on the amenity of its neighbours. The Government also recognises that when giving a permitted development right, the national interest or need for the development must be balanced against the individual's right to a home, family or private life. The impact on neighbours and the surrounding area of a school is likely to be greater

where the impacts of the existing use of the building are very different to those of a school, for example in terms of noise, parking and litter problems. However, in some cases a school may have less impact on neighbours than existing uses.

Transport

22. A school may have implications for local public transport services or raise issues of access and road safety. Currently, as part of obtaining change of use consent, schools developers can be required to produce a travel plan, considering matters such as sustainable travel initiatives like pedestrian and cycle routes, road safety, improvements to the highways network, segregated access, traffic-calming measures, restrictions to on-site parking and wet weather facilities. Removing the need to apply for planning permission would remove the obligation to prepare such a plan.
23. There are often particular requirements around parking and high volumes of traffic at certain times to be considered in relation to schools development. The potentially large volume of cars trying to park at any particular time can have a number of effects, for example the potential for cars to park illegally or for harmful impacts upon the road safety of children. Some of these matters can currently be addressed through conditions such as those imposed to stagger school opening times.
24. The creation of a new local school could also reduce the need for travel by car in some cases as pupils are able to attend a school nearer to their home. Secondary pupils who attend schools outside their home local authority area travel an average of 2.9 miles. Allowing schools to open where communities want them will allow some pupils that have previously had to travel a substantial distance (often by car) to walk to school.

Noise

25. If noise is likely to be generated by the schools development, for instance through sports or music lessons, car parking or playground activities, it could affect existing sensitive premises such as nearby housing, particularly where there might be any increase in noise from the previous use. There may, however, be other routes for dealing with the problems that arise such as through environmental health legislation. This runs the risk, however, that if noise is not controlled through conditions imposed via the planning system, other regulatory regimes will have an increased burden placed upon them.
26. When considering the impacts of schools development, it is important to remember that where schools are being developed within existing buildings, the existing development is likely to have some, if not all, of the impacts that a school might generate. The Government expects that once the school is established, its 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. However, it recognises that if any infrastructure is required, the local authority will need to deliver it and will not necessarily have set aside the budget to do so.

27. While planning is primarily concerned with land use impacts, it is also, in its broadest context, about building cohesive, functional neighbourhoods. An element of this is about meeting local demand locally, such as for school places. It is this broader context that is important here; and it is within this context that the Government is inviting views on the consultation options set out in this document.

The consultation options

Potential for change

28. 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.
29. As can be seen from this list, it is not necessary to be exactly like a school to be classed as 'similar enough' in land use impact terms not to require a planning application for change of use.

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

30. 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.

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

31. In considering the current classifications within the Use Classes Order, 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.
32. The Government therefore proposes that the following uses be given a 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 sports and recreations (except for motor sports, or where firearms are used).

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

33. 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 would achieve that objective by extending the permitted development right for school use to all uses.
34. Clearly, there will always be some properties which, for different reasons, may be unsuitable for use as a school and we would expect school promoters to eliminate them from their consideration. We do not believe that we need to prescribe them. The Government also recognises that there are some uses that would be impracticable to be used as a school - for instance a skating rink - without development that would trigger the need to apply for planning permission.
35. This option offers maximum flexibility for those intending to set up a school, in their search for premises. We 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 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.

36. 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). An alternative would be for the permitted development right to apply to all uses falling within a class in the Use Classes Order.

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

37. 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, this option could result in an in-built delay - while the travel assessment is considered - which could impede school development.
38. 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.

Consideration of options

39. The Government is seeking any views on whether the permitted development rights suggested under option 2 could have adverse and unintended consequences. For those further uses included under options 3 and 4, the Government would welcome views on whether other matters need to be considered as part of the permitted development right, and is seeking views on firstly, whether a permitted development right is appropriate for these uses and secondly, whether any such right should have conditions attached to it.
40. The Government would welcome views on which of these four options is most appropriate. The Government is not stating a preference at this stage on how these proposals should be implemented.
41. The Government would also welcome views about the desirability of the school co-existing in a dual use with another use. In some cases, for instance where a school operates in one floor of an office or in one unit of a retail complex, we think a dual use would be favourable. We recognise that in other circumstances, it would be highly undesirable - for example if a school were to occupy the function room of a pub or the upstairs of a fast food restaurant. In planning terms, it would be difficult to make a distinction between favourable and unfavourable dual uses and so the Government is inviting views on how best to address this matter.

Legislative changes

42. A draft statutory instrument giving uses a permitted development right to convert to a schools use is attached at Annex B.
43. In order to encourage owners to lease properties to schools on a temporary basis where appropriate – for instance, to provide accommodation while new school premises are being developed – we propose to include a provision for a right to revert to the previous use within five years.
44. The draft instrument at Annex B has been included to illustrate the type of conditions that could be attached to the permitted development right under the proposals at option 4, as this is the most legislatively complex of the consultation options. The draft conditions require the school developer, before commencing development, to apply to the local planning authority for a determination as to whether the prior approval of the authority will be required to the change of use, accompanied by a written assessment of transport impacts. The Government is not however stating any preference at this stage about how these proposals should be implemented.

Article 4 powers

45. Local planning authorities will retain their right to use Article 4 powers to remove or restrict the permitted development right where they are satisfied that it is expedient that the schools development should not be carried out unless permission is granted for it on an application.

Application of compensation provisions

46. The Planning Act 2008 introduced provisions relating to compensation whereby if a permitted development right is withdrawn by way of an Article 4 Direction, compensation will be payable only if the application is made within 12 months of the direction coming into force (and subsequently refused or granted subject to restrictive conditions). It also provides that if a local planning authority gives at least 12 months notice in advance of the withdrawal of the permitted development right, compensation will not be payable.
47. We are specifically consulting upon whether the provision contained within Section 189 of the Planning Act 2008, which relates to the payment of compensation, should be applied where Article 4 Directions are made withdrawing the permitted development right to change from any use to a school.

The consultation questions

- Q1.** Do you think that the uses listed under option 2 should be given a permitted development right to convert to a school?
- A1 – shops
 - A2 – financial and professional services
 - B1 – business
 - B8 – storage or distribution
 - C1 – hotels
 - C2 – residential institutions
 - C2A – secure residential institutions
 - D2 – assembly and leisure
- 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?
- A3- restaurants and cafés
 - A4 – drinking establishments
 - A5 – hot food takeaways
 - B2 – general industrial
 - C3 – dwellinghouses
 - C4 – houses in multiple occupation
 - Sui generis uses
- 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 five years?
- Q4.** Would allowing the following uses to convert to a school use without the need to apply for planning permission have any unintended consequences?
- A1 – shops
 - A2 – financial and professional services
 - B1 – business
 - B8 – storage or distribution
 - C1 – hotels
 - C2 – residential institutions
 - C2A – secure residential institutions
 - D2 – assembly and leisure
 - A3 – restaurants and cafés
 - A4 – drinking establishments
 - A5 – hot food takeaways
 - B2 – general industrial
 - C3 – dwellinghouses
 - C4 – houses in multiple occupation
 - Sui generis uses

- 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?
- Q6.** Do you think that there are any other matters that the conditions should address?
- 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?
- Q8.** The Government would like to permit schools to co-exist with certain dual uses, but not with others. Do you have views about whether and how this could be achieved?
- Q9.** Which is your preferred option and why?
- Option 1
 - Option 2
 - Option 3
 - Option 4
- Q10.** Do you think these proposals should be applied solely to new free schools or to all schools? Why?
- Q11.** Are there any further comments or suggestions you wish to make?

About this consultation

Impact assessment

The impact assessment is annexed to this consultation document. It is a consultation stage impact assessment, which analyses the costs and benefits of the policy options alongside the 'do nothing' baseline.

Questions about the impact assessment:

- Do you think that the impact assessment broadly captures the types and levels of costs associated with the policy options?
- Do you think that the impact assessment broadly captures the types and levels of benefits associated with policy options? If not why?
- Do you agree that the impact assessment reflects the main impacts that particular sectors and groups are likely to experience as a result of the policy options? If not why not?
- Are the **key assumptions** used in the analysis in the impact assessment realistic? If not what do you think would be more appropriate and do you have any evidence to support your view?
- Are there any other relevant **key sources of evidence** relating to the policy or the effectiveness of the suggested options that have been omitted? If so please provide details.
- Are there any **significant costs and benefits that we've omitted**? If so please describe including the groups in society affected and your view on the extent of the impact.
- Are there any **significant risks or unintended consequences we haven't identified**? If so please describe.
- Do you think there are any **groups disproportionately affected**?

Invitation to comment

This is a public consultation and it is open to anyone to respond to this consultation. However, we would particularly welcome responses from:

- local planning authorities
- school promoters
- community representatives.

How to respond

The Government welcomes your views on all aspects of the proposals set out in this consultation.

A range of questions are set out in the attached questionnaire. We would value your opinion on as many or as few questions as you can answer. Your response should follow the format of the questionnaire and we welcome responses via the consultation questionnaire, which is downloadable from our website at: www.communities.gov.uk/consultations

The online questionnaire will be available from **14 October 2010** and should be emailed to the Schools Team at the following address: schools@communities.gsi.gov.uk

Our preference is to receive responses electronically using the consultation questionnaire where possible. If you wish to post your response, however, please send it to the Planning Development Management Division at the following address:

Sharmila Meadows
Schools Team
Planning Development Management Division
Communities and Local Government
1/J3, Eland House
Bressenden Place
London SW1E 5DU

This consultation will run from 14 October to 10 December 2010.
The deadline for submissions is Friday 10 December 2010.

Data protection

This is to inform you that we may, with your consent, quote from your response in a published summary of the response to this consultation. If you are content for your views to be made public in this way, please tick the box.

Otherwise, your views may be set out in the response, but without attribution to you as an individual or to you as an organisation.

We shall treat the contact details you provide us with carefully and in accordance with the data protection principles in the Data Protection Act 1998. We shall not make them available to other organisations, apart from any contractor (“data processor”) who may be appointed on our behalf to analyse the results of this questionnaire, or for any other purpose than the present survey without your prior consent.

We shall inform you in advance if we need to alter this position for any reason.

What will happen to the responses?

The Department will take account of the responses received to this consultation before making decisions on possible changes to planning legislation.

Following the close of the consultation we will analyse the responses to the consultation and produce a summary of them which will be published on the Department's website.

Publication of responses - confidentiality and data protection

- Information provided in responses to this consultation, including personal information, may be published, or disclosed in accordance with the access to information regimes. (These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
- If you want any of the information that you provide to be treated as confidential you should be aware that under the FOIA, there is a statutory Code of Practice with which public authorities must comply, and which deals amongst other things with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential.
- If we receive a request for disclosure of information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
- The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

The seven consultation criteria and this consultation

This consultation document and consultation process have been planned to adhere to the Code of Practice on Consultation issued by the Better Regulation Executive (BRE) in the Department for Business, Innovation and Skills (BIS) and is in line with the seven consultation criteria, which are:

1. Formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible. This consultation will however run for a period of eight weeks. A shortened consultation period is required to offer sufficient time for school promoters to obtain properties that can be operational from September 2011 in line with the Government's commitment that new free schools will begin to operate in the 2011-12 academic year.
3. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as

confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

The Department, Communities and Local Government, will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please inform CLG Consultation Co-ordinator.

The postal address is:

Zone 6/J10
Eland House
London SW1E 5 DU

The e-mail address is: consultationcoordinator@communities.gsi.gov.uk

Annex A: Draft impact assessment

<p>Title: Amendments to the General Permitted Development Order - schools</p> <p>Lead department or agency: Communities and Local Government</p> <p>Other departments or agencies: Department for Education</p>	<p>IA No: 0017</p> <p>Date: 01/09/2010</p> <p>Stage: Consultation</p> <p>Source of intervention: Domestic</p> <p>Type of measure: Secondary legislation</p> <p>Contact for enquiries: Susan Turner Susan.Turner@communities.gsi.gov.uk</p>
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Summary: Intervention and options

What is the problem under consideration? Why is government intervention necessary?

The Government is seeking to empower parents, teachers and other schools providers to establish new schools where there is a local need or parental demand. The planning system has a small but vital role to play in this process because planning permission is currently required to develop a school, including where many existing buildings are being converted from other uses. Therefore, to facilitate the delivery of new schools, and new free schools in particular, from September 2011, the Government would like to make changes to the General Permitted Development Order (GPDO) so that more sites become available for schools development without the need for obtaining planning permission.

What are the policy objectives and the intended effects?

The main policy objective is to provide local communities with the freedom to set up new schools in existing buildings without the burden, delay and additional costs of applying for planning permission. The intended effect is to reinforce the ability of parents, teachers, charities and other school providers to set up schools by removing the planning system as a disincentive.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

- 1) Do nothing (baseline)
- 2) Amend the GPDO to introduce a new permitted development right to enable a change of use from *some* uses to a school without the need to apply for planning permission.
- 3) Amend the GPDO to introduce a new permitted development right to enable a change of use from *any* use to a school without the need to apply for planning permission.
- 4) Amend the GPDO to introduce a new permitted development right, with attached conditions, to enable a change of use from *any* use to a school without the need to apply for planning permission.

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?	
---	--

Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	No
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SELECT SIGNATORY Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY:..... Date:.....

Description: Amend the GDPO and the associated UCO to introduce a new permitted development right to enable a change of use from some uses to a school without the need to apply for planning permission.

Price Base Year 2010	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £0.05	High: £0.1	Best Estimate: £0.07

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			
High			
Best Estimate			

Description and scale of key monetised costs by 'main affected groups'

Other key non-monetised costs by 'main affected groups'

Local residents – impacts on third parties by increased noise, traffic and disruption.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low		£6,000	£48,000
High		£12,000	£98,000
Best Estimate		£9,000	£73,000

Description and scale of key monetised benefits by 'main affected groups'

Average annual benefits:

Planning application fee savings and admin savings to school providers (specifically parents, teachers, charities) and cost savings to school providers of written representation for appeals: £6,000-£12,000

Local planning authorities – cost savings of reduced number of appeals: negligible

Planning Inspectorate – cost savings of reduced number of appeals: negligible

Other key non-monetised benefits by 'main affected groups'

Local communities – by having the ability to set up a new school without the need to apply for planning permission, children may have improved access to education and schools would be able to respond to local demand. This would, in turn, have much longer-term benefits to the wider community.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
<p>It is assumed that there are no additional benefits to local planning authorities arising from a reduced number of planning applications, as planning application fees cover their administrative costs.</p> <p>Local authorities – if the changes result in a greater number of Article 4 directions issued by local authorities, they may incur additional administrative costs. It is not anticipated that local authorities will issue Article 4 directions.</p>		

Impact on admin burden (AB) (£m):	Impact on policy cost savings (£m):	In scope
New AB: 0	Policy cost savings: £0.002m	Yes/No
AB savings: 0.007	Net: -0.007	

Description: Amend the GDPO and the associated UCO to introduce a new permitted development right to enable a change of use from any type of development to a school without the need to apply for planning permission.

Price Base Year 2010	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £0.1	High: £0.2	Best Estimate: £0.15
COSTS (£m)					
	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Cost (Present Value)
Low					
High					
Best Estimate					
Description and scale of key monetised costs by 'main affected groups'					
Other key non-monetised costs by 'main affected groups'					
Local authorities – cost of providing other additional requirements, such as additional infrastructure; and costs of dealing with increased complaints, such as traffic/congestion.					
Local residents – impacts on third parties by increased noise, traffic and disruption.					
BENEFITS (£m)					
	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Benefit (Present Value)
Low			£12,000		£96,000
High			£24,000		£197,000
Best Estimate			£18,000		£147,000
Description and scale of key monetised benefits by 'main affected groups'					
Average annual benefits:					
Planning application fee savings and admin savings to school providers (specifically parents, teachers, charities) and cost savings of written representation for appeals to school providers: £12,000 - £24,000					
Local planning authorities – cost savings of reduced number of appeals: negligible					
Planning Inspectorate – cost savings of reduced number of appeals: negligible					
Other key non-monetised benefits by 'main affected groups'					
Local communities – by having the ability to set up a new school without the need to apply for planning permission, children may have improved access to education and schools would be able to respond to local demand. This would, in turn, have much longer-term benefits to the wider community.					
Key assumptions/sensitivities/risks					Discount rate (%)
					3.5
It is assumed that there are no additional benefits to local planning authorities arising from a reduced number of planning applications, as planning application fees cover their administrative costs. Local authorities – if the changes result in a greater number of Article 4 directions, local authorities may incur additional administrative costs. It is not anticipated that local authorities will issue Article 4 directions.					
Impact on admin burden (AB) (£m):			Impact on policy cost savings (£m):		In scope
New AB:£0m	AB savings:£0.014m	Net:-0.014	Policy cost savings:	£0.004m	Yes/No

Description: Amend the GDPO and the associated UCO to introduce a new permitted development right, with attached conditions, to enable a change of use from any type of development to a school without the need to apply for planning permission.

Price Base Year 2010	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £0.07	High: £0.11	Best Estimate: £0.09
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)	
Low			£4,000	£31,000	
High			£11,000	£89,000	
Best Estimate			£7,000	£60,000	
Description and scale of key monetised costs by 'main affected groups'					
Average annual costs: School provider: administrative costs of undertaking a transport assessment: £3,000 - £9,000. There are also costs associated with appealing if the local planning authority does not approve the transport assessment: negligible. Local planning authorities – costs associated with assessing transport assessments: £1,000 - £2,000. There are also costs associated with processing appeals if the local planning authority does not approve the transport assessment: negligible Planning Inspectorate – costs associated with processing appeals if the local planning authority does not approve the transport assessment: negligible.					
Other key non-monetised costs by 'main affected groups'					
Local authorities – cost of providing other additional requirements, such as additional infrastructure; and costs of dealing with increased complaints, such as traffic/congestion. Local residents – impacts on third parties by increased noise, traffic and disruption.					
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)	
Low			£12,000	£96,000	
High			£24,000	£197,000	
Best Estimate			£18,000	£147,000	
Description and scale of key monetised benefits by 'main affected groups'					
Average annual benefits: Planning application fee savings and admin savings to school providers (specifically parents, teachers, charities) and cost savings of written representation for appeals to school providers: £12,000 - £24,000 Local planning authorities – cost savings of reduced number of appeals: negligible Planning Inspectorate – cost savings of reduced number of appeals: negligible					

Other key non-monetised benefits by 'main affected groups'

Local communities – by having the ability to set up a new school without the need to apply for planning permission, children may have improved access to education and schools would be able to respond to local demand. This would, in turn, have much longer-term benefits to the wider community.

The use of attached conditions to permitted development rights will help to negate adverse impacts and mitigate against the potential for schools to generate traffic, congestion and parking issues, thus preventing schools being established in unsuitable or dangerous locations.

Key assumptions/sensitivities/risks**Discount rate (%)**

3.5

It is assumed that there are no additional benefits to local planning authorities arising from a reduced number of planning applications, as planning application fees cover their administrative costs.

Local authorities – if the changes result in a greater number of Article 4 directions, local authorities may incur additional administrative costs. It is not anticipated that local authorities will issue Article 4 directions.

Impact on admin burden (AB) (£m):

New AB:£0.006m

AB savings:£0.014m

Net:-0.008m

Impact on policy cost savings (£m):

Policy cost savings:

£0.004m

In scope

Yes/No

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	England				
From what date will the policy be implemented?	Winter 2011				
Which organisation(s) will enforce the policy?	Local communities, local authorities				
What is the annual change in enforcement cost (£m)?					
Does enforcement comply with Hampton principles?	Yes/No				
Does implementation go beyond minimum EU requirements?	n/a				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded:		Non-traded:		
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs:		Benefits:		
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	Yes/No	Yes/No	Yes/No	Yes/No	Yes/No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties ¹ Statutory Equality Duties Impact Test guidance	No	
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	
Small firms Small Firms Impact Test guidance	No	
Environmental impacts		
Greenhouse gas assessment	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	No	
Justice system Justice Impact Test guidance	No	
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainable development Sustainable Development Impact Test guidance	No	

¹ Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No.	Legislation or publication
1	Conservative Open Source Planning Green Paper 2010 www.conservatives.com/News/News_stories/2010/02/~/_media/Files/Green%20Papers/planning-green-paper.ashx
2	Coalition Agreement 2010 www.cabinetoffice.gov.uk/media/409088/pfg_coalition.pdf
3	Arup (2009) <i>Benchmarking the costs to applicants of submitting a planning application.</i>
4	CLG live tables, as referenced.
5	Edubase (2010)
6	School Buildings Survey (2009)

+ Add another row

Evidence Base: Option 4

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs										
Annual recurring cost										
Total annual costs										
Transition benefits										
Annual recurring benefits										
Total annual benefits										

* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office
Excel Worksheet

Evidence Base (for summary sheets)

Problem under consideration

In England the requirement to obtain planning permission extends not only to new construction but also to substantive changes of use of a property. The Town and Country Planning (Use Classes) Order, as amended, sets out various classes of use. Changes of use within a particular use class do not require an application for planning permission. A change of use from one class to another will normally require a planning application so that the local planning authority can assess the land-use implications of such a change.

We can, however, allow sites with existing permission for a particular class of use to be allowed to convert to a different use without the need to apply for planning permission. This is referred to as 'permitted development' and requires secondary legislation. A local planning authority can only withdraw permitted development rights by issuing an Article 4 direction. An Article 4 direction results in an applicant submitting a planning application for work which normally does not need one.

Schools fall into the D1 use class, this applies to non-residential institutions and also includes clinics, health centres, crèches, day nurseries, day centres, art galleries, museums, libraries, halls, places of worship, church halls, law courts, and non-residential education and training centres. Sites that fall into the D1 use class can already be used as schools without the need to apply for a planning application. However, sites that fall outside the D1 use class currently require planning permission in order to change their use to or from a school. This requirement for planning permission for change of use involves a regulatory process with costs, which could hinder the delivery of new free schools from September 2011.

Rationale for intervention

The Coalition Agreement gave a commitment to promote the reform of schools in order to ensure that new providers can enter the state school system in response to parental demand. On 18 June 2010, the Secretary of State for Education outlined the process for allowing teachers, charities and parents to set up Free Schools in response to parental demand. On 26 July 2010, the Secretary of State for Communities and Local Government made a statement to the House of Commons outlining the importance of establishing new free schools and making clear that in considering applications for schools development, very significant weight should be given to the desirability of establishing a new school and to enabling local people to do so.

Alongside this, the Government has also stated its commitment to making it easier to secure sites for new schools. This will include allowing a wider range of sites, including residential and commercial property, to be used as schools without the need for 'change of use' consent. By making changes to the planning system in this way, we are reinforcing the ability of new school providers to set up new schools quickly and flexibly in response to changing demands for local people.

Policy objective

The objective is to free up the planning system for the development of new schools to enable teachers, charities and parents to change the use of any existing building to a new school without the need to apply for planning permission. Although the purpose of the changes is to facilitate the creation of new free schools, the proposed changes to the planning system will apply to all schools development.

In exceptional circumstances, where local authorities see a real and specific threat in their area or part of their area in allowing unrestricted schools development, they retain their Article 4 powers to remove the permitted development right. This would enable the local authority to assess the land-use implications of such a change of use where necessary. However, we do not anticipate or advocate local authorities issuing Article 4 directions.

Description of options considered (including do nothing)

OPTION 1: DO NOTHING

No changes would be made to planning legislation or policy.

OPTION 2: AMEND THE GPDO TO INTRODUCE A NEW PERMITTED DEVELOPMENT RIGHT TO ENABLE A CHANGE OF USE FROM *SOME* USES TO A SCHOOL WITHOUT THE NEED TO APPLY FOR PLANNING PERMISSION

This option would be delivered by amending the GPDO so that some classes within the UCO are given permitted development rights to change to a school. These new permitted development rights would be restricted to those use classes that could be seen to have similar impacts to that of a school (though not necessarily in terms of noise), for example, by generating a similar amount of daytime footfall or additional traffic and parking pressures. Under this option, these classes would be able to convert to a school without the need to apply for planning permission as their use as a school would not be expected to have greater access or infrastructure requirements to their current use or cause more disruption to the surrounding area.

It is proposed that the following uses would be given permitted development rights to convert to 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 cafes.
- *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* - This class includes open air storage.
- *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 night clubs), swimming baths, skating rinks, gymnasiums or area for indoor or outdoor sports and recreations (except for motor sports, or where firearms are used).

OPTION 3: AMEND THE GPDO TO INTRODUCE A NEW PERMITTED DEVELOPMENT RIGHT TO ENABLE A CHANGE OF USE FROM *ANY* USE TO A SCHOOL WITHOUT THE NEED TO APPLY FOR PLANNING PERMISSION

This option would be delivered by amending the GPDO so that all classes within the UCO are given permitted development rights to change to a school. In addition to extending the permitted development rights for those uses described under option 2 above, this option would also include the following use classes:

- *A3 Restaurants and cafés* - For the sale of food and drink for consumption on the premises - restaurants, snack bars and cafes.
- *A4 Drinking establishments* - Public houses, wine bars or other drinking establishments (but not night clubs).
- *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 Dwelling houses* - 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.*

Although these use classes may have a different impact on a neighbourhood to a school, this option would allow innovative and creative school development and would broaden the potential stock of available school accommodation as far as possible, thereby maximising choice for parents, teachers and local communities and facilitating the smooth delivery of new free schools.

OPTION 4: AMEND THE GPDO TO INTRODUCE A NEW PERMITTED DEVELOPMENT RIGHT, WITH ATTACHED CONDITIONS, TO ENABLE A CHANGE OF USE FROM ANY USE TO A SCHOOL WITHOUT THE NEED TO APPLY FOR PLANNING PERMISSION

Like option 3, this option would be delivered by amending the GPDO so that all classes within the UCO are given permitted development rights to change to a school. This option would also include the use of conditions to mitigate against adverse impacts that may result from offering a broad permitted development right.

We recognise that some of these use classes may have a different impact on a neighbourhood to a school, which could result in adverse impacts particularly around transport access and road safety. For this reason, we propose that conditions are attached to the permitted development right to require the school's developer to seek prior approval from the local planning authority for a transport assessment of any likely impacts resulting from the proposed development. This option will however introduce delay into the system.

The benefit of this option is that, like option 3, by broadening the use classes that are able to convert into schools without the need to apply for planning permission, it would allow innovative and creative school development and would increase the potential stock of available school accommodation. Unlike option 3, option 4 provides some built-in safeguards against adverse impacts through the proposed prior approvals process, but equally, this feature could restrict the unfettered powers found in option 3.

Costs and benefits of each option

Sectors and groups affected:

- Local authorities
- Teaching providers/schools promoters
- Children
- Community representatives
- Residents

OPTION 1: DO NOTHING (BASELINE)

There are no new or additional costs and benefits associated with this option. There is however the ongoing costs to applicants of having to submit planning applications for change of use to new schools.

The planning application process could be acting as a disincentive for using existing buildings as schools.

Consultees are asked to comment on the extent to which the planning system currently acts as a disincentive to change of use development for schools.

OPTION 2: AMEND THE GPDO TO INTRODUCE A NEW PERMITTED DEVELOPMENT RIGHT TO ENABLE A CHANGE OF USE FROM *SOME* USES TO A SCHOOL WITHOUT THE NEED TO APPLY FOR PLANNING PERMISSION

General assumptions

We have assumed an indicative stock of 21,000 schools as the basis of this Impact Assessment. This data cut is taken from Edubase June 2010; it excludes independent, higher learning, further education establishments, nurseries and pupil referral units. It is assumed that there are approximately 2,500 independent schools.

We have assumed that 6 per cent of schools development results from the change of use of existing buildings, thus would benefit from this policy of permitted development, no longer requiring planning permission. There is no reliable data source that relates to the change of use of existing buildings to schools. Six per cent is the proportion of all decisions that relate to change of use planning decisions in England, year ending March 2010.² Given that policy option 2 addresses the change of use of some buildings, it is assumed that this figure is reduced to by half, so that 3 per cent of schools relate to change of use of existing buildings.

Consultees are asked to comment on whether these assumptions seem reasonable.

We have employed a range of 0.05 per cent to 1 per cent for the future growth rate of schools per annum. This is based on the number of new school buildings being constructed/converted and the total number of schools (23,500). Table 1 provides the number of new school buildings being constructed/converted; derived from the School Buildings Survey (2009). These are buildings work that are being carried out or planned for, as of 2009.

² www.communities.gov.uk/documents/statistics/xls/1627454.xls

Table 1: New school buildings constructed/converted*

	Financial Year (in which building works are completed)		
	2009-10	2010-11	2011-12
Primary	88	107	122
Secondary	48	66	62
Special	14	14	13
Total	150	186	197

*Refers to number of school buildings, not number of schools.

Consultees are asked to comment on whether this assumption seems reasonable.

Benefits

This option would help to free up the planning system for the development of new schools, removing the barriers to setting up new schools where the land-use impacts would be similar to those of the existing use. This option would support the localism agenda, by giving local communities more planning freedoms to establish new schools in existing buildings in their area, in response to the demands of local people.

Benefits to school providers

This option would provide school providers with greater flexibility and would result in increased savings for school providers in terms of not having to bear the costs of submitting a planning application for the change of use from one of the use classes to a school (detailed above under Option 2). This option would also avoid unnecessary delay for those wishing to set up a new school, enabling providers to respond quickly and flexibly to local demands. The benefits to school providers are the cost savings associated with permitted development: the administrative cost and fee for a planning application. Furthermore, there will be a reduction in the number of related appeals. Table 2 presents the average annual cost savings to school providers.

This is based on the following assumptions:

- A change of use planning application fee of £335.³
- The Arup report finds that the average administrative cost of a change of use planning application is £1,245.
- There are no fees for submitting planning appeals.
- Most appeals will be determined by written representation from appellants. We have assumed an administrative cost of £500, although we consider that, in many cases, the additional cost of submitting an appeal will be lower, as all the information needed will be provided at the application stage and there will be no additional consultancy costs.
- We have assumed 6 per cent of planning applications give rise to appeals.⁴ This is based on the number of change of use appeals received in 2009-10 as a proportion of the number of change of use planning decisions in England, year ending March 2010.

Consultees are asked to comment on whether these assumptions seem reasonable.

³ www.opsi.gov.uk/si/si2008/draft/ukdsi_9780110809892_en_1

⁴ www.planning-inspectorate.gov.uk/pins/reports/stats_09_10/section_1.xls

Table 2: Average annual cost savings to school providers

	LOW	HIGH
Total savings: Administrative and fee savings and savings of written representation for appeals	£6,000	£12,000

Benefits to local authorities

There are assumed to be no additional benefits, in terms of reduced administrative burden, arising from the decrease in planning applications, as application fees cover local authorities' administrative costs. However, there are likely to be cost savings associated with a reduced number of appeals. These have been estimated and are negligible.

This is based on the assumption that these cases will be dealt with by written representations and an average cost to local planning authorities of £141 per appeal (planning officer salary + 20 per cent + accommodation for 1 day).

Consultees are asked to comment on whether this assumption seems reasonable.

Benefits to the Planning Inspectorate

There will be cost savings associated with determining a reduced number of appeals. These have been estimated and are negligible.

This is based on the full corporate cost of a planning inspector's time to determine the appeal (including direct costs of the inspector, chargeable overheads and administrative support) of an average £918 per day. Minor written representations cases take an inspector on average 1 day to deal with.

Consultees are asked to comment on whether this assumption seems reasonable.

Benefits to local communities

This option would also help facilitate the Free Schools initiative by removing the requirements created by the planning system and so reinforcing the ability of school providers to set up new schools in existing buildings. This option would allow school promoters to be confident about progressing their proposals for new and Free Schools without the costs associated with submitting a planning application. By having the ability to set up a new school without the need to apply for planning permission, schools would be able to respond to local need and parental demand. This would, in turn, have much longer-term benefits to the wider community. In addition, the ability to convert a building into a school may reduce the extent to which units are left vacant, removing the social costs of vacant units. These benefits have **not been monetised**.

Costs

There are no significant additional costs associated with this option. These costs have **not been monetised**.

Costs to local authorities

There is a risk that this option may be perceived by some as a loss of control for local authorities. However, as the permitted development right would only be extended to those use classes that could be seen to have similar impacts to that of a school in terms of additional footfall, traffic and parking, we do not predict that any perceived loss of control would result in any negative outcomes. In addition, as the impacts would be similar, this option is unlikely to have any potential costs in terms of additional infrastructure requirements.

By removing the need to apply for planning permission for some types of development, local authorities will not have the ability to attach any conditions to permission so may need to use their other regulatory powers instead. For example, if a school is set up in an area where there is existing B8 development (storage and distribution), the local authority may need to use their regulatory powers to ensure that the noise generated by the existing development does not cause an unacceptable disturbance to the new school. This may have cost implications for local authorities. However, we consider this risk to be low given that school providers would be unlikely to set up a school in areas where disturbance is likely to be an issue (for example, near to an industrial site).

It is possible that this option could lead to greater use of Article 4 directions in order to remove permitted development rights where a local authority sees a real and specific threat in allowing unrestricted schools development. It is the responsibility of the local authority to bear the costs of imposing Article 4 directions. The benefits of issuing directions, in terms of controlling development, must outweigh the financial costs incurred by local authorities. However, it is difficult to assess the cost implications for local authorities as it is difficult to assess how many local authorities would use their Article 4 powers. It is not anticipated that local authorities will use Article 4 directions.

Costs to local residents

This option would remove the right for local people, businesses or other interested parties to comment on applications for change of use and raise any concerns in terms of the impacts highlighted above. However, as the impacts of a new school are likely to be similar to that of the existing use, we do not expect this to result in any adverse outcomes for potential neighbours.

Consultees are asked to comment on whether these assumptions seem reasonable.

OPTION 3: AMEND THE GPDO TO INTRODUCE A NEW PERMITTED DEVELOPMENT RIGHT TO ENABLE A CHANGE OF USE FROM ANY USE TO A SCHOOL WITHOUT THE NEED TO APPLY FOR PLANNING PERMISSION

Benefits

This option would deliver all of the benefits identified under option 2, but would go even further by broadening the potential stock of available school accommodation as far as possible. In this way, this option would further support the localism agenda, by giving local communities unfettered planning powers to set up new schools, which will in turn empower local people to progress new free schools.

The same assumptions from Option 2 are maintained, with the exception of:

- We have assumed that 6 per cent of schools relate to change of use of existing buildings, thus would benefit from this policy of permitted development, no longer requiring planning permission. There is no reliable data source that relates to the change of use of existing buildings to schools. Six per cent is the proportion of all decisions that relate to change of use planning decisions in England, year ending March 2010, given that policy option 3 addresses the change of use of any building.⁵

Consultees are asked to comment on whether this assumption seems reasonable.

Benefits to school providers

This option would provide school providers with even greater flexibility and would result in further increased savings for school providers in terms of not having to bear the costs of submitting a planning application, since there would be more opportunity to use existing buildings. The benefits to school providers are the cost savings associated with permitted development: the administrative cost and fee for a planning application.

⁵ www.communities.gov.uk/documents/statistics/xls/1627454.xls

Table 3: Average annual cost savings to school providers

	LOW	HIGH
Total savings: Administrative and fee savings and savings of written representation for appeals	£12,000	£24,000

The benefits illustrated under Option 2 to local authorities, the Planning Inspectorate and the wider benefits to local communities would be enhanced under Option 3, given a change of use from *any* use to a school.

Benefits to local authorities

There are assumed to be no additional benefits, in terms of reduced administrative burden, arising from the decrease in planning applications, as application fees cover local authorities' administrative costs. However, there are likely to be cost savings associated with a reduced number of appeals. These have been estimated and are negligible.

Benefits to the Planning Inspectorate

There will be cost savings associated with determining the increased appeals. These have been estimated and are negligible.

Costs

There are no significant additional costs associated with this option. However, it is expected that while the impacts would be greater than those identified under option 2, they would still not be significant.

This option would introduce a permitted development right for schools that may have different impacts to previous uses. For example, a school has the potential to generate traffic, parking, noise and litter problems and may have implications for local public transport services or policing. This option would prevent such impacts from being considered by the local authority and there may be a perceived risk therefore that schools would begin to operate in unsustainable locations. The following specific impacts on individual uses have been identified:

- *A3 Restaurants and cafes, A4 Drinking establishments and A5 Hot food takeaways:* such uses are often clustered in one specific area. It may be argued that such locations are not suitable for schools as these uses would not support the health and well-being of children in terms of providing adequate access to outdoor play areas, protecting children against alcohol or reducing the risk of child obesity. However, for these reasons it is unlikely that such sites would be attractive to a school provider. On the other hand, such uses should be located within town centres which provide the most accessible location for new schools and offer the most sustainable transport options. For this reason, we consider the change of use from these classes to a school would not have any significant adverse impacts.
- *B2 General industrial:* industrial uses are often clustered together on an industrial site so that the impacts are confined to a specific area. Such areas may be considered unsuitable or even dangerous for a school and would be likely to create a disturbance by way of noise. Such locations often require access by heavy and noisy vehicles throughout the day which could create safety, traffic and parking issues for the school which could not be mitigated by way of planning conditions or obligations. However, the nature of these sites means that they are unlikely to be attractive to a school provider.
- *C3 Dwelling houses:* there is a risk that the use of a home as a school has the potential to cause disruption to residents particularly in terms of traffic, parking, and noise as well as loss of privacy and daylight and external appearance. It could also be argued that

such locations would be the most attractive to school providers, particularly if there is demand for a school to meet the needs of a specific neighbourhood. However, in many situations, these locations may be the most suitable for a school in order to meet demand in the immediate neighbourhood.

Costs to local authorities

The current system allows the use of planning controls to alleviate the concerns regarding congestion and traffic (for example, through the use of conditions or planning obligations). By removing the need to apply for planning permission for some types of development, local authorities will not have the ability to attach any conditions to permission. Option 3 may raise concerns regarding additional requirements, such as infrastructure, which may have to be provided by the local authority. Also, if noise is not controlled through the planning system, other regulatory regimes could have an increased burden at a cost to the authority. As the permitted development right would be extended to enable a change of use from any use, there could be concern that in certain circumstances the impacts of a school in terms of additional footfall, traffic and parking may be more acute than the previous use. However, this is not deemed to impose significant costs on local authorities. Furthermore, it is not anticipated that schools would be set up in unsuitable and inappropriate locations.

However, this option may require local authorities to make greater use of their regulatory powers in order to protect amenity. For instance, there may be costs relating to investigating complaints about statutory nuisances (e.g. noise, light and odour). This option may also result in greater use of Article 4 directions than option 2 to address the impacts highlighted above, since permitted development would apply to all existing uses. It is the responsibility of the local authority to bear the costs of imposing Article 4 directions. The benefits of issuing directions, in terms of controlling development, must outweigh the financial costs incurred by local authorities. However, it is difficult to assess the cost implications for local authorities as it is difficult to assess how many local authorities would use the Article 4 power. It is not anticipated that local authorities will use Article 4 directions.

Consultees are asked to comment on whether these assumptions seem reasonable.

Costs to local residents

This option would also remove the right for local people, businesses or other interested parties to comment on applications for change of use and raise any concerns in terms of the impacts highlighted above. There could be impacts on neighbourhoods and nearby dwellings, for example, due to increased traffic. However, this depends upon many factors that would vary by school, such as location, number of pupils and the previous use of the building.

OPTION 4: AMEND THE GPDO TO INTRODUCE A NEW PERMITTED DEVELOPMENT RIGHT, WITH ASSOCIATED CONDITIONS, TO ENABLE A CHANGE OF USE FROM ANY USE TO A SCHOOL WITHOUT THE NEED TO APPLY FOR PLANNING PERMISSION

Benefits

This option would deliver all of the benefits identified under options 2 and 3 above, although by introducing a prior approvals process, it would not offer the unfettered powers provided by option 3. However, by placing conditions on the permitted development right, this option would bring the additional benefit of offering the opportunity to mitigate adverse impacts that might arise in relation to matters such as road safety and transport accessibility.

The same assumptions from options 2 and 3 are maintained, with the exception of:

- We have assumed that 6 per cent of schools relate to change of use of existing buildings, thus would benefit from this policy of permitted development, no longer requiring planning permission. There is no reliable data source that relates to the change of use of existing buildings to schools. Six per cent is the proportion of all decisions that relate to

change of use planning decisions in England, year ending March 2010, given that policy option 3 addresses the change of use of any building.⁶

Consultees are asked to comment on whether this assumption seems reasonable.

Benefits to school providers

The benefits to schools providers are the same as those identified under option 3 (above).

Table 3: Average annual cost savings to school providers

	LOW	HIGH
Total savings: Administrative and fee savings and savings of written representation for appeals	£12,000	£24,000

The same benefits as illustrated under Option 3 to local authorities, the Planning Inspectorate and the wider benefits to local communities would apply under Option 4.

Benefits to local authorities

There are assumed to be no additional benefits, in terms of reduced administrative burden, arising from the decrease in planning applications, as application fees cover local authorities' administrative costs. However, there are likely to be cost savings associated with a reduced number of appeals. These have been estimated and are negligible.

Benefits to the Planning Inspectorate

There will be cost savings associated with determining a reduced number of appeals. These have been estimated and are negligible.

Costs

There are no significant additional costs associated with this option. However, it is expected that while the impacts would be greater than those identified under option 2, they would still not be significant.

This option would introduce a permitted development right for schools that may have different impacts to previous uses. For example, a school has the potential to generate traffic, parking, noise and litter problems and may have implications for local public transport services or policing. The following specific impacts on individual uses have been identified:

- *A3 Restaurants and cafes, A4 Drinking establishments and A5 Hot food takeaways:* such uses are often clustered in one specific area. It may be argued that such locations are not suitable for schools as these uses would not support the health and well-being of children in terms of providing adequate access to outdoor play areas, protecting children against alcohol or reducing the risk of child obesity. However, for these reasons it is unlikely that such sites would be attractive to a school provider. On the other hand, such uses should be located within town centres which provide the most accessible location for new schools and offer the most sustainable transport options. For this reason, we consider the change of use from these classes to a school would not have any significant adverse impacts.
- *B2 General industrial:* industrial uses are often clustered together on an industrial site so that the impacts are confined to a specific area. Such areas may be considered

⁶ www.communities.gov.uk/documents/statistics/xls/1627454.xls

unsuitable or even dangerous for a school and would be likely to create a disturbance by way of noise. Such locations often require access by heavy and noisy vehicles throughout the day which could create safety, traffic and parking issues for the school which could not be mitigated by way of planning conditions or obligations. However, the nature of these sites means that they are unlikely to be attractive to a school provider.

- *C3 Dwelling houses*: there is a risk that the use of a home as a school has the potential to cause disruption to residents particularly in terms of traffic, parking, and noise as well as loss of privacy and daylight and external appearance. It could also be argued that such locations would be the most attractive to school providers, particularly if there is demand for a school to meet the needs of a specific neighbourhood. However, in many situations, these locations may be the most suitable for a school in order to meet demand in the immediate neighbourhood.

In recognition of these risks and to mitigate against such impacts, this option proposes to attach conditions to the permitted development right that would require the schools developer to prepare a travel assessment on:

- i) the accessibility of the development by existing means of public transport
- ii) the level of traffic likely to be generated by the development in the local area
- iii) the likely impact of the development on road safety in the local area
- iv) the likely impact of the development on car parking in the local area and
- v) any measures proposed to address or mitigate any of the effects identified

and seek prior approval from the local planning authority, based upon that assessment, to proceed with the permitted development right. These conditions would apply to all schools proposals irrespective of the existing use class of the building. The use of conditions will help to negate adverse impacts and prevent schools being established in unsuitable or dangerous locations.

Costs to school providers

There will be costs to school providers in terms of the administrative costs of undertaking a transport assessment.

Table 4: Average annual costs to school providers

	LOW	HIGH
Total costs: Undertaking a transport assessment	£3,000	£9,000

This is based on a number of assumptions, following discussions with a local authority practitioner.

- Two to three days to prepare an assessment (7.5 hours per day), including a site visit. This is for a school of approximately 50 pupils; it would take longer for larger schools.
- The hourly wage of a consultant carrying out this assessment is estimated at an up-rated wage of £27.50 per hour. This is based on £22 per hour (based on national HEO annual wage for 2009) and up rated by 125 per cent to account for additional costs of employment, such as pensions and also overheads, such as building and equipment costs, rent and other expenses incurred.

There are also the costs associated with appealing if the LPA does not approve the transport assessment. These have been calculated and are negligible.

This is based on the following assumptions:

- It is estimated that 1 per cent -5 per cent of assessments are not approved (based on expert internal opinion).
- It is estimated that the administrative cost at £500 is incurred for submitting an appeal against an assessment that is not approved. There is no appeal fee (see page 11/12).

Consultees are asked to comment on whether these assumptions seem reasonable.

Costs to local authorities

The current system allows the use of planning controls to alleviate the concerns regarding congestion and traffic (for example, through the use of conditions or planning obligations). By removing the need to apply for planning permission for some types of development, local authorities will not have the ability to attach any conditions to permission. The scope of option 3 could raise concerns regarding additional requirements, such as infrastructure, which may have to be provided by the local authority. As the permitted development right would be extended to enable a change of use from any use, there could be concern that in certain circumstances the impacts of a school in terms of additional footfall, traffic and parking may be more acute than the previous use. There may be costs associated with investigating complaints about statutory nuisances (e.g. noise, light or odour). Attaching conditions to permitted development rights – in particular that a transport assessment should be completed – could help to identify the potential adverse impacts. It is not anticipated that schools would be set up in unsuitable and inappropriate locations as schools promoters will be keen to ensure parental support.

There are costs associated with assessing transport assessments.

This is based on the following assumptions, following discussions with a local authority practitioner:

- Four hours to assess an assessment.
- The hourly wage of a planner carrying out this out is estimated at an up-rated wage of £27.50 per hour. This is based on £22 per hour (based on national HEO annual wage for 2009) and up rated by 125 per cent to account for additional costs of employment, such as pensions and also overheads, such as building and equipment costs, rent and other expenses incurred.

Table 5: Average annual costs

	LOW	HIGH
Total costs: Assessing a transport assessment	£1,000	£2,000

There are also the costs associated with processing appeals if the LPA does not approve the transport assessment. These have been calculated and are negligible.

- It is estimated that 1 per cent – 5 per cent of assessments are not approved (based on internal expert opinion).
- It is estimated that appeals would be dealt with by written representations with the average cost to a local planning authority of £141 (see page 11/12).

Consultees are asked to comment on whether these assumptions seem reasonable.

However, this option may require local authorities to make greater use of their regulatory powers in order to protect amenity. This option may also result in greater use of Article 4 directions than option 2 to address the impacts highlighted above, since permitted development would apply to all existing uses. It is the responsibility of the local authority to bear the costs of imposing Article 4 directions. The benefits of issuing directions, in terms of controlling development, must outweigh the financial costs incurred by local authorities. However, it is difficult to assess the cost implications for local authorities as it is difficult to assess how many local authorities would use the Article 4 power. It is not anticipated that local authorities will use Article 4 directions.

Consultees are asked to comment on whether these assumptions seem reasonable.

Costs to the Planning Inspectorate

There are costs associated with processing appeals if the LPA does not approve the transport assessment. These have been monetised and are negligible.

- It is estimated that 1 per cent – 5 per cent of assessments are not approved (based on internal expert opinion).
- It is estimated that appeals would be determined at an average cost of a planning inspector's time of £918 per day (see page 11/12).

Consultees are asked to comment on whether these assumptions seem reasonable.

Costs to local residents

This option would also remove the right for local people, businesses or other interested parties to comment on applications for change of use and raise any concerns in terms of the impacts highlighted above. There could be impacts on neighbourhoods and nearby dwellings, for example, due to increased traffic. However, this depends upon many factors that would vary by school, such as location, number of pupils and the previous use of the building.

Risks

There are risks attached with this approach. The requirement to prepare a travel assessment will have cost implications for the schools provider, which might serve as a disincentive; although our estimates suggest that such costs would be favourable when compared with the costs associated with preparing and submitting a planning application. There is also a potential risk that the local planning authority might use the approvals process to ask the schools provider to mitigate impacts that are also caused by other developments or for which the school is merely the tipping point. We propose that any conditions are constructed in such a way that the schools provider need address only those impacts generated exclusively by the school.

Admin Burdens: Admin Savings represent the average annual mid point of the admin savings to schools providers from no longer applying for planning permission. This is estimated at £7,000 (Option 2). The Policy Cost Savings represent the planning application fee savings to school providers: £2,000 (Option 2).

For option 3, this is estimated at £14,000. Policy Cost Savings represent the planning application fee savings to school providers: £4,000.

For option 4, the new admin burdens represent the average annual costs to businesses i.e. school providers of completing a transport assessment at £6,000 (£3,000 - £9,000). The admin burden savings arise from the administrative savings of no longer applying for planning permission: £14,000 (£9,000 - £18,000). The net admin burden is equal to £8,000. The Policy Cost Savings represent the planning application fee savings to school providers: £4,000.

New Burdens Assessment: there are no new burdens on local authorities.

One In One Out: this policy lowers the regulatory burden on business and the third sector i.e. school providers. The net cost savings represent the sum of the administrative cost savings of no longer applying for planning permission and no longer paying an application fee; estimated at: £18,000 (£12,000 - £24,000) for option 3 and £12,000 (£9,000 - £15,000) for option 4.

Specific impact tests

Statutory equality duties

An Equalities Impact Assessment has been prepared alongside this document which concludes that we do not anticipate policy options 2, 3 or 4 having any adverse impacts upon equalities.

Economic impacts

Competition

We do not anticipate policy options 2, 3 or 4 having any adverse impacts upon competition. Indeed, we consider that the proposals have the potential to positively impact on competition by removing the barriers that planning can create to discourage the introduction of a new school.

Small firms

We do not anticipate policy options 2, 3 or 4 having any adverse impacts upon small firms.

Environmental impacts

Greenhouse gas assessment and wider environmental issues

It may be argued that the proposals could have a harmful impact on the environment and increase levels of carbon emissions by increasing road traffic. However, any traffic would tend to be diverted from existing school locations so should not result in a net increase in carbon emissions. Indeed, the proposals may result in new schools being located in more accessible locations thereby having a positive impact on the environment. We do not therefore anticipate options 2, 3 or 4 having any adverse environmental impacts.

Social impacts

Neighbourhood areas and nearby dwellings could be affected by more traffic generated. However, this depends on the location of the school and the previous use of the building and we anticipate that the conditions requiring an assessment of the transport impacts of the proposed development would negate adverse impacts on neighbours and the surrounding area.

Health and well-being

We do not anticipate options 2, 3 or 4 having any adverse impacts on health and well-being.

Human rights

We do not anticipate options 2, 3 or 4 having any adverse impacts on human rights.

Justice system

We do not anticipate options 2, 3 or 4 having any adverse impacts on the justice system.

Rural proofing

We do not anticipate options 2, 3 or 4 having any adverse impacts on rural areas. These proposals will apply to rural areas as they will urban ones. We consider the proposals have the potential to have a positive impact on rural communities which can sometimes be isolated from essential services, such as schools. The proposals will enable these communities to introduce new schools in existing buildings without the need to apply for planning permission for change of use, thereby improving access to education in response to local demand.

Sustainable development

It may be argued that the proposals would result in more schools being located in unsustainable locations, such as industrial sites. However, this risk is minimal as these locations are unlikely to represent an attractive option for schools providers. Conversely, the proposals have the potential to positively impact sustainability, for example by enabling change of use of a main town centre use, which is highly accessible. We do not therefore anticipate options 2, 3 or 4 having any adverse impacts on sustainable development.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]</p>
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p>
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]</p>
<p>Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here]</p> <p>This is a very small policy change. A wider review of the impacts of these proposed changes will be undertaken as part of a wider review of the Free Schools Initiative with DfE.</p>

Annex B: Draft statutory instrument

STATUTORY INSTRUMENTS

2011 No. XXXX

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2011

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State, in exercise of the powers conferred by sections 59, 60, 61 and 333 of the Town and Country Planning Act 1990(a), makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2011 and shall come into force on XX 2011.

(2) This Order applies in relation to England only.

Amendment of the Town and Country Planning (General Permitted Development) Order 1995

2.—(1) The Town and Country Planning (General Permitted Development) Order 1995(b) is amended as follows.

(2) In Part 3 of Schedule 2, after Class I insert—

“Class J

Permitted development

J. Development consisting of a change of the use of a building to a use for a purpose falling within Class D1(c) of the Use Classes Order (non-residential institutions for the provision of education) from a use for any purpose.

Conditions

J.1 Development is permitted by Class J subject to the condition that the building shall only be used for the provision of school education.

(a) 1990 c.8; to which there are amendments not relevant to this Order. These powers are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672; see the entry in Schedule 1 for the Town and Country Planning Act 1990 (c.8) as substituted by article 4 of, and Schedule 3 to, the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/ 253). By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c.32), they were transferred to the Welsh Ministers.

(b) S.I. 1995/418. Relevant amendments were made by S.I. 2005/85, S.I. 2006/221 and S.I. 2010/654.

J.2—(1) Development is permitted by Class J subject to the condition that the developer shall, before beginning the development, apply to the local planning authority for the prior approval of the authority to the change of use.

(2) The application shall be accompanied by—

- (a) a written description of the location or address of the building, its current use and a plan indicating the location of the building, together with any fee required to be paid;
- (b) written information as to the date when the building is first proposed be used to provide education, and the approximate number and ages of persons to whom that education is to be provided; and
- (c) a written assessment of—
 - (i) the accessibility of the building by existing means of public transport;
 - (ii) the level of traffic likely to be generated in the neighbourhood by people travelling to and from the building while it is being used to provide education;
 - (iii) the likely impact on road safety and on car parking in the neighbourhood from people travelling to and from the building while it is being so used; and
 - (iv) any measures proposed to address or mitigate any such effects identified.

(3) Development shall not be begun before the occurrence of one of the following—

- (a) the receipt by the applicant from the local planning authority of a written notice of their prior approval;
- (b) the expiry of 28 days following the date on which the application was received by the local planning authority without the local planning authority—
 - (i) giving the applicant a written notice of their prior approval; or
 - (ii) requesting in writing further details of any matter referred to in paragraph (2) which the authority reasonably require in deciding whether to give prior approval and whether to impose conditions; or
- (c) the expiry of 14 days following the date of the receipt, by the local planning authority, of any details requested under paragraph (b)(ii) without the local planning authority giving the applicant a written notice of their prior approval.

(4) Development shall not be begun unless the applicant has displayed a site notice on the land on which the proposed development is to be carried out or, if that is not practicable, as near to the land as practicable, leaving the notice in position for not less than 21 days in the period of 28 days from the date on which the applicant applied to the local planning authority under paragraph (1).

(5) Where the notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 21 days referred to in paragraph (4) has elapsed, the applicant shall be treated as having complied with the requirements of that paragraph if the applicant has taken reasonable steps for the protection of the notice and, if need be, its replacement.

(6) The development shall, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted in the application.

(7) The prior approval referred to in paragraph (1) shall not be refused or granted subject to conditions unless—

- (a) the authority are satisfied that it is expedient to do so because the proposed development would injure the amenity of the neighbourhood because of the likely effects on local transport, traffic, road safety or car parking of people travelling to and from the building while it is being used to provide education; and
- (b) any conditions imposed are necessary in order to avoid or mitigate those effects.

Interpretation of Class J

J.3 For the purposes of Class J—

“school education” means—

- (a) full-time education suitable for the requirements of persons of compulsory school age;
- (b) full-time education suitable for the requirements of persons over compulsory school age but under 19; and

“site notice” means a notice containing—

- (a) the name of the applicant;
- (b) the address or location of the building;
- (c) the date when the building is first proposed be used to provide education;
- (d) the approximate number and ages of persons to whom the education is proposed to be provided;
- (e) a website address where the assessment under paragraph J.2(2)(c) may be viewed;
- (f) the name and address of the local planning authority; and
- (g) a statement, which is signed and dated by the applicant, that the prior approval of the authority is required to the use of the building to provide school education.

Class K

Permitted development

K. Development consisting of a change of use of a building from a use permitted by Class J to its previous use.

Development not permitted

K.1 Development is not permitted by Class K where the change of use occurs more than five years after the change of use permitted by Class J.

Interpretation of Class K

K.2 For the purposes of Class K, “previous use” means the lawful use of the building immediately prior to the change of use permitted by class J.”.

Signed by authority of the Secretary of State for Communities and Local Government

	<i>Name</i>
	Parliamentary Under Secretary of State
Date	Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)

The Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418) (“the GPDO”) grants planning permission for specified development without the need for a planning application. The amendments made to it in this Order apply to England only.

Paragraph (2) of article 2 of this Order amends Part 3 (changes of use) in Schedule 2 to the GPDO to give permitted development rights to changes of use from buildings used for any purpose to buildings used as schools. The prior approval of the local planning authority is required in relation to the impact on local transport, traffic, road safety and car parking.

An impact assessment has been prepared in relation to this Order. It has been placed in the library of each House of Parliament and copies may be obtained at www.communities.gov.uk.