

# Converting Offices to Residential

Any gold rush will not be plain sailing - solicitor **Alex Ground** comments

**P**lans to convert London's famous Centre Point tower block from office space to luxury residential apartments were recently unveiled and put the spotlight once again onto Government proposals to change planning restrictions for office-to-resi developments. Nick Boles has now also confirmed that it was the government's firm intention to have the new permitted development rights that will allow office conversions (B1(a)) into residential (C3) in effect by the end of May. Owners of office floor space should therefore consider their assets and assess whether a change of use would be appropriate. As will be seen below, some Local Planning Authorities (LPA) may still try and thwart conversion plans but with such disparity in yields in some areas between office and residential, the appeal costs may be worth it.

## How long will the Permitted Development Rights be in place for before they are subject to review?

The changes will be in place for an initial period of three years with a review at that point as to whether to extend it indefinitely; whether this will be sufficient comfort though to LPAs concerned about the potential loss of office floorspace remains to be seen.

## Will planning permission still be needed for exterior works?

Associated external physical development will still require planning permission although presumably any LPA that tries to abuse the system by refusing such applications on tenuous grounds will be at risk of costs on appeal. I suspect that many LPAs will refuse such applications, at least initially, and developers will need to be prepared to go to appeal.

## What exemptions or restrictions on the Permitted Development rights will there be?

Exemptions will be granted where it has



been demonstrated that the changes would result in either the loss of a nationally significant area of economic activity (e.g. the City of London) or substantial adverse economic consequences would not offset by the positive benefits of the right.

DCLG is busy reviewing the 30 (out of 33) applications for exemptions (for all or part of their areas) from London boroughs, alongside seven applications from other cities. LPAs that have submitted applications for exemptions will be eagerly awaiting the announcement of whether their application has been successful and considering their options; judicial review challenges may be in the offing. Nick Boles at a recent Savills conference emphasized that such exemptions will only be given in exceptional circumstances. It seems likely that tightly drawn up exemptions that only apply to very small areas and that are few in number will be allowed. Developers outside core employment areas should be safe to progress for consideration of conversion plans.

For disgruntled LPAs who have their application for exemption dismissed, the option of making an Article 4 Direction to restrict the application of the permitted development rights will also then be open to them. However, the Secretary of State

has the power to cancel any such direction (save in some limited circumstances including where it affects listed buildings) and has given guidance that they should only be used in exceptional circumstances where the exercise of permitted development rights would harm local amenity, the historic environment or the proper planning of the area. Therefore, any such article 4 directions issued by an LPA will not be plain sailing or likely to be brought into effect quickly.

LPAs will also be able to attach a condition to any planning permission granted for office floorspace that these permitted development rights do not apply. Again, determined owners may need to be prepared to go to appeal on any applications to remove such conditions.

## Areas of uncertainty

As these areas of uncertainty will be permitted development rights, no s106 agreement containing obligations relating to affordable housing can be requested by the LPA. This fits with the government rhetoric that if more dwellings are delivered they will de facto become more affordable and that it is therefore less concerned that these conversions will escape an

**Continued on page 39**

*This article has been reproduced from the April 2013 issue of Property Investor News™. To receive a sample copy go to: [www.property-investor-news.com/register.lasso](http://www.property-investor-news.com/register.lasso) or contact us on 020 8906 7772*

#### Continued from page 37

'Affordable Housing' burden. Regardless of this, owners will need to be careful to avoid CIL (it's not chargeable on a change of use provided the existing building has been in lawful continuous use for at least six months in the twelve months prior to the development being permitted).

In the London context it is unclear to what extent the new homes provided will need to comply with guidance such as the Mayor's Housing SPG which specifies minimum space standards, levels of amenity space and advises against provision of elements such as single aspect, north facing units.

Apparently there will also be a tightly drawn prior approval process which will cover significant transport and highway impacts, and development in areas of high

flood risk, land contamination and safety hazard zones. Whether this will result in an absolute right of veto in these circumstances, if appropriate mitigating works are not forthcoming is yet unclear. Certainly prudent owners would want transport and highway impacts to be addressed regardless, by their own mitigation works if necessary, in order to preserve value in the new residential units created.

#### What else is to come in the future?

The government has also announced in the budget that it will consult on 'allowing further flexibilities between use classes to support change of use from certain agricultural and retail uses to residential use to increase responsiveness within the planning system'. Again, if this is to be taken forward, there is likely to be strong

opposition unless the core town centres are exempted. Similar issues will arise as much purpose-built retail space will not be suitable for residential; however for older traditional Victorian shops in small parades such conversions in secondary retail space may be more straight forward and to be welcomed.

Ensuring the continued supply of workspace for a more balanced office and retail sector is the key to the commercial success of London and many other UK cities. Established workplace zones risk losing key office buildings to residential use; let's hope that the right balance is struck when the exemptions are granted and there is no gold rush mentality, on 1st June. How developers create more mixed-use places and diverse occupier workspaces to meet the needs of today's workforce will be crucial.

