

Examining the implications of changes to protection of employment land on residential windfalls in Cambridge (September 2016)

Context

1. At the Matter 8 hearing session on housing land supply, there was discussion of the impact of changes to the protection of employment land on the future delivery of residential windfall completions. At this hearing, the Council stated that the impact would be likely to be minimal given that many changes from offices to residential are small in scale and involve buildings that have been vacant for a good period of time. Nevertheless, the Council confirmed that it would investigate this matter further and provide evidence of the potential impacts of this policy change. This paper examines these potential impacts.
2. The wording of policy 7/3 in the existing plan and policy 41 in the submission plan is set out below for comparison. Of particular note, is the final paragraph of policy 41 which defines employment uses as "*B use classes and sui generis research institutes*", *this same definition is used within the analysis in this paper.*
3. Policy 7/3 Protection of Industrial and Storage Space:

Development, including changes of use, that results in loss of floorspace within Use Classes B1(c), B2 and B8 will not be permitted where the site is identified on the Proposals Map as a protected industrial/storage site. Development, including changes of use, that results in a loss of floorspace within Use Classes B1(c), B2 and B8 elsewhere in the City will only be permitted if:
 - a. there is sufficient supply of such floorspace in the City to meet the demand and/or vacancy rates are high; and either*
 - b. the proposed development will generate the same number or more unskilled or semi-skilled jobs than could be expected from the existing use; or*
 - c. the continuation of industrial and storage uses will be harmful to the environment or amenity of the area; or*

d. the loss of a small proportion of industrial or storage floorspace would facilitate the redevelopment and continuation of industrial and storage use on a greater part of the site; or

e. redevelopment for mixed use or residential development would be more appropriate.

4. Policy 41 Protection of Business Space

Within protected industrial sites as identified on the policies map, development (including change of use) that would result in the loss of floorspace or land within use class B or sui generis research institutes will not be permitted unless:

a. the loss of floorspace would facilitate the redevelopment and continuation of employment uses (within B1(c), B2 or B8 use class) on the site and the proposed redevelopment will modernise buildings that are out of date and do not meet business needs; or

b. the site has been realistically marketed for a period of 12 months for employment uses (within B1(c), B2 or B8 use class), including the option for potential modernisation for employment uses (in use class B1(c), B2 or B8) and no future occupiers have been found, in which case other employment uses will be considered. If other employment uses do not prove possible, then other uses will be considered, subject to their compatibility with surrounding uses.

There will be a presumption against the loss of any employment uses outside protected industrial sites. Development (including change of use) resulting in the loss of employment uses will not be permitted unless:

c. the loss of a small proportion of floorspace would facilitate the redevelopment and continuation of employment uses (within B use class or sui generis research institutes) on the site and that the proposed redevelopment will modernise buildings that are out of date and do not meet business needs; or

d. the site is vacant and has been realistically marketed for a period of 12 months for employment use, including the option for potential modernisation for employment uses and no future occupiers have been found.

In this policy, the phrase 'employment use' refers to the B use classes and sui generis research institutes. It does not refer to other uses that generate employment (such as, for example, retail, schools, and care institutions).

Policy Changes

5. The primary differences between the proposed policy and the existing policy are as follows:
 - a. the proposed policy allows for the loss of industrial floorspace in protected industrial sites and for 'employment uses' (as defined in Policy 41) outside protected industrial sites in a wider range of circumstances including upon completion of an appropriate marketing exercise¹.
 - b. the policy now applies to all floorspace in 'employment use' (as defined in Policy 41), only allowing their loss after the site is vacant and has been unsuccessfully marketed for 12 months. In effect the policy now protects floorspace falling in Use Classes B1a, B1b and Sui Generis research institutes that were not protected before.

6. To understand the potential impact of this proposed policy change, this paper examines how many windfall developments have taken place on 'employment land' (as defined in Policy 41) over the last five years, and the circumstances under which planning permission was granted.

Data and analysis

7. Over the last five years (2009/10-2013/14) there have been 456 net dwelling completions on 295 windfall sites (excluding garden land)².

¹ Albeit since the NPPF came out policy 7/3 has been applied more flexibly including having regard to marketing of the site.

² As an aside, it is noteworthy that this works out to 91.2 per annum, lower than the 123.3 dwellings per annum assumed in the SHLAA. This is most likely because this covers the period immediately following the economic downturn of 2007/08 and so a lower level of development (including windfalls) is not surprising.

Table 1: Residential windfalls, 2009/10-2013/14 by previous use class

Previous use class	NET				GROSS			
	Dwellings	%	No of Sites	%	Dwellings	%	No of Sites	%
A Use Classes	36	7.89%	21	7.12%	40	5.97%	17	8.06%
B Use Classes	70	15.35%	28	9.49%	86	12.84%	27	12.80%
C Use Classes	219	48.03%	205	69.49%	401	59.85%	132	62.56%
D Use Classes	17	3.73%	4	1.36%	17	2.54%	4	1.90%
Sui Generis	42	9.21%	15	5.08%	43	6.42%	13	6.16%
Mixed Use Classes ³	48	10.53%	17	5.76%	59	8.81%	13	6.16%
Unknown	24	5.26%	5	1.69%	24	3.58%	5	2.37%
	456		295		670		211	

8. Table 1, above, sets out the source of residential windfall completions from 2009/10-2013/14 by the previous use class of the site. For the purposes of the analysis this paper is interested in sites that were previously in B use classes and sui generis research institutes, as per the definition of employment uses to be protected. However, sites which were previously in B1(c), B2 or B8 use are currently awarded protection under policy 7/3. Therefore, this paper will look in more detail at those sites which are not currently protected, but will be under policy 41 in the draft plan, i.e. sites which have an element of B1a, B1b or sui generis research institutes.
9. There were 28 such sites (delivering a total of 80 dwellings), equating to 17.54% of all residential windfalls over the period 2009/10-2013/14. These are taken as a subset from the rows 'B Use Classes' and 'Mixed Use Schemes', coloured green in Table 1 above.

³ Note, this includes some sites with B uses

Further analysis

10. In trying to understand whether development on these 28 sites would have been acceptable under the proposed Policy 41, it is useful to look at these sites in more detail. It is of particular interest to establish how long these properties had been vacant at the time a planning application was submitted. This is due to criteria b) and d) of Policy 41 which require sites to be vacant and realistically marketed for employment uses.
11. A full schedule of these 28 sites is set out in Appendix 1.
12. Of these 28 sites:
 - 7 sites had B uses on site, which were occupied at the time the planning application was submitted;
 - 6 sites were vacant for more than a year;
 - 4 sites were vacant for less than a year;
 - 3 sites were vacant for an unknown period of time;
 - 7 sites did not have enough information to understand whether they were vacant or not; and
 - 1 site was under-occupied and difficult to let.

The units delivered from those sites are set out in Table 2 below.

13. Of the sites that are likely to be impacted by the new policy (and are not impacted by the existing policy), 12 sites, delivering 35 dwellings would have been unlikely to meet policy 41 as they would not have been vacant for over a year when the application was submitted. These 12 sites are made up of the 7 sites which were occupied at the time of submission of a planning application, 4 sites which had been vacant for less than a year, and 1 site which was under-occupied and difficult to let. That is not to say that planning permission might not have been granted, just that the policy would be likely to have impacted the applications submitted at that timing.
14. Six of the sites, which had been vacant for more than a year, delivered 19 dwellings. These sites would, if they had been marketed for employment uses, be likely to be capable of satisfying policy 41.

15. For ten of the sites, delivering 26 dwellings, not enough information is available to understand how they would be impacted by policy 41.

Table 2: How long were sites vacant before planning applications were submitted?

How long sites were vacant before planning applications were submitted?	Dwellings	% of dwellings
7 sites: occupied	23	28.75%
6 sites: vacant for more than a year	19	23.75%
4 sites: vacant for less than a year	11	13.75%
3 sites: vacant for unknown time	5	6.25%
7 sites: unknown if vacant or not	21	26.25%
1 site: under occupied and difficult to let	1	1.25%

Conclusions

16. Over the five year period 2009/10-2013/14, there were 456 net dwelling completions from windfalls (not on garden land). The vast majority of these were developed on land identified as previously in the C use class. Up to 80 dwellings were likely have to been impacted by policy 41, had it been in effect as they were delivered on sites that were previously in B1a, B1b or general B1 use.
17. However, analysis shows that some of these sites had been vacant for over a year prior to the submission of a planning application. On balance, it is likely that planning permission could be achieved for these sites under policy 41, as the policy does not seek to prevent the redevelopment of sites that are vacant for long periods of time. This leaves 61 dwellings being delivered on sites, where it is not clear whether the sites would have been capable of satisfying the policy.
18. 61 dwellings over five years, equates to roughly 12 dwellings a year. The overall figure for windfall completions in Cambridge is 123.3 dwellings per annum, starting in 2018/19 and continuing until the end of the plan period (i.e. 13 years). This means

that there are around 156 dwellings likely to come forward through windfalls that may be affected by the introduction of policy 41.

19. It is also worth noting that in May 2013 the Government brought in a temporary change to permitted development rights allowing for offices to change to residential. In July 2014, the Government consulted on making these changes permanent. In Cambridge, there have been 12 prior approval notices applied for since these changes (see table 3).

Table 3: Prior approval notices for changes from offices to residential prior to 11 July 2016

Application	Dwellings	Decision
16/0625/B1C3 Wheels, 153-157 Newmarket Road	1	Prior approval given
16/0403/B1C3 6 Regent Terrace	1	Prior approval given
15/2119/B1C3 24 Cambridge Place	5	Awaiting decision
15/1703/B1C3 Castle Court, Castle Park	342	Prior approval given
15/1164/B1C3 5 Brooklands Avenue	6	Prior approval given
14/1959/B1C3 Jubilee House, 3 Hooper Street	9	Withdrawn application
14/1360/B1C3 26 Newmarket Road	U/k	Refused permission
14/0240/B1C3 20 Cambridge Place	8	Prior approval given
14/0054/B1C3 St Marys House, 47 High Street, Trumpington	1	Prior approval given
13/1767/B1C3 43 Burleigh Street	1	Prior approval given
13/1396/B1C3 96A Mill Road	1	Prior approval given
13/1283/B1C3 1 City Road	2	Prior approval given

13/1260/B1C3 Upper Floors, 104 Regent Street Cambridge	1	Prior approval given
13/0995/B1C3 24 Newmarket Road	8	Prior approval given

20. This new source of supply has so far led to 372 dwellings attaining prior approval in just over three years. These dwellings outweigh the 156 where there is uncertainty introduced through the change in protection of employment uses.
21. Therefore, it is clear that the impact of the proposed policy 41 on the delivery of windfalls from employment uses is likely to be minimal and it is outweighed by other changes to policy at a national level. No adjustment to the windfall rate is needed.

Appendix 1: Schedule of Planning Applications likely to have been impacted by Policy 41 2009/10-2013/14

Application No.	Address	Proposal	Net Completions	As at date	Previous use Class	Vacancy period prior to application
C/00665/11	Office rear of, 42 Elizabeth Way, Cambridge, CB4 1EE	Proposed change of use of existing office building (B1) to residential	3	31/03/2014	B1a	Currently occupied
C/01260/13	Chinese Lawyers Ltd, 104, Regent Street, Cambridge, CB2 1DP	Change of use of the upper floors to a Use Class C3 (dwellinghouses to contain a 1 x 2 bed flat) from a use falling within Use Class B1(a) Offices	1	31/03/2014	B1a	Currently occupied
C/01457/11	9 Wellington Court, Cambridge, Cambridgeshire, CB1 1HZ	Change of use of three storey office building to form a one bed flat, and/or to form a B1(a) office building in the alternative, together with the erection of a bin and bike store.	1	31/03/2014	B1a	Vacant for 1.5 years
C/01293/11	72-74 Newmarket Road, Cambridge, Cambridgeshire, CB5 8DZ	Change of use of the first floor of the premises from B1(a) offices to C3 residential to create 1 no. 1 bed unit and 2 studio units.	3	31/03/2014	B1a	Vacant for 3 months
C/00583/12	616-620 Newmarket Road, Cambridge, Cambridgeshire, CB5 8LP	Change of use of offices to 2 one-bedroom flats and with new dormers and rooflights	2	31/03/2014	B1a	Vacant for 1.5 years
C/01376/13	57, Regent Street, Cambridge, CB2 1AB	Application solely seeks change of use from B1 to A3 (first floor) and from B1 to C3 (second floor)	1	31/03/2014	B1a	Appeared to not be vacant
C/00995/13	24 Newmarket Road, Cambridge,	Change of use from B1 offices to C3 residential.	8	31/03/2014	B1a	U/k if vacant

	Cambridgeshire, CB5 8DT					
C/01085/11	14 Howes Place, Cambridge, Cambridgeshire, CB3 0LD	Change of use from office/storage use to 2 x 3 bed residential dwellings at 14 and 15 Howes Place, Cambridge and associated access and landscaping	2	31/03/2014	B1	Vacant for u/k period
C/00466/12	Saxon House, Edward Street, Cambridge, Cambridgeshire, CB1 2LS	Change of use to dwelling. Conversion into dwelling and erection of ground floor extension	1	31/03/2013	B1	Vacant for u/k period
C/00548/99	Land at, 78-80 Castle Street, Cambridge, CB3	Change of use from office to residential and alterations and extensions to rear	2	31/03/2013	B1a	U/k if vacant
C/00128/07	Building at, 76, Regent Street, Cambridge, CB2	C/U of the 1st and second floors from offices to student accomodation, the construction of a rear extension to provide a seperate rear entrance to the upper floors	1	31/03/2013	B1a	U/k if vacant
C/01341/11	Atlas House, 1 Portugal Place, Cambridge, Cambridgeshire, CB5 8AF	Change of use from offices (B1) to HMO (C4).	1	31/03/2013	B1a	Vacant > 1 year
C/00117/11	75-79 Regent Street, Cambridge, Cambridgeshire, CB2 1BE	Application for change of use from B1 to 9 residential units on first and second floors only	9	31/03/2013	B1a	Vacant 3.5 years
C/01559/11	72a Regent Street, Cambridge, Cambridgeshire, CB2 1DP	Conversion of existing office space into four residential units	4	31/03/2013	B1a	Vacant 1.5 years
C/01444/11	6 Wellington Court, Cambridge,	Change of use of 2/3 storey detached office building to	1	31/03/2013	B1a	Underoccupied and difficult to let

	Cambridgeshire, CB1 1HZ	form a single dwelling with the erection of a bin and bike store and alterations to pavings.				
C/01067/10	23-29 Occupation Road, Cambridge, CB1 2RT	Proposed erection of 14no apartments (5x1bed, 8x2bed and 1x3bed) following demolition of existing buildings.	14	31/03/2013	B1a & B1c	Currently occupied: B1a (135.66) & B1c (393.63)
C/00097/11	19a Belgrave Road, Cambridge, Cambridgeshire, CB1 3DE	Change of use of the Old Bakery (No 19A) Belgrave Road from a commercial office/workshop to a 2 bed dwelling, together with a single storey side/rear extension, fenestration changes to the East and North elevations, landscaping and associated works.	1	31/03/2013	B1a	Currently occupied
C/00717/11	141 Newmarket Road, Cambridge, Cambridgeshire, CB5 8HA	Change of use from commercial to residential and associated works, including dormer windows to front and rear.	1	31/03/2013	B1a & C3	B1a vacant for 10 months
C/00587/11	121 Newmarket Road, Cambridge, Cambridgeshire, CB5 8HA	Conversion of vacant offices into two residential units.	2	31/03/2013	B1a	Vacant for 3 years
C/00055/11	1 and 2 Wellington Court Wellington Street Cambridge Cambridgeshire CB1 1HZ	Change of use of 2 three storey office buildings to form 6 x 1bed flats, together with the erection of a bin and bike store and insertion of a rooflight and the provision of replacement hard and soft landscaping.	6	31/03/2013	B1a	Vacant for 7 months
C/00118/11	Old Manor House, St	Change of use from offices	1	31/03/2012	B1a	U/k if vacant

	Andrews Road, Cambridge, Cambridgeshire, CB4 1DH	to residential. Alterations within existing building envelope garden works and new boundary treatment.				
C/00883/10	Galloway and Porter Ltd, 30 Sidney Street, Cambridge, Cambridgeshire, CB2 3HS	Change of use of first, second and attic floors to College accommodation from retail/office use (and improvements to existing ground and basement retail area).	1	31/03/2012	A1 & B1a	Vacant 2 months
C/00541/11	62 Cherry Hinton Road, Cambridge, Cambridgeshire, CB1 4AA	Change of use of first floor (offices) to accommodation (flat).	1	31/03/2012	B1a	Currently occupied
C/01166/10	50 Kingston Street, Cambridge, Cambridgeshire, CB1 2NU	Proposed redevelopment of site to replace the commercial premises to the rear and change the use of the site frontage from commercial use to two dwellings.	2	31/03/2012	B1a	Vacant for u/k period
C/01407/08	Land at, 56, Frenchs Road, Cambridge, Cambridgeshire	conversion of an existing commercial building to form four one-bedroomed houses.	4	31/03/2011	B1a	U/k if vacant
C/00982/08	Land at 35, Parkside, Cambridge	Conversion of 11 flats and 161m2 of office to 7 flats in listed building, includes partial demolition and replacement of two wings and erection of 5 flats to rear.	1	31/03/2011	B1a & C3	U/k if vacant
C/00778/07	Retail at 30, Mill Road, Cambridge	Conversion and extension to create 5 studio flats and rationalise storage/office space for retail. To include retention of existing security	4	31/03/2010	A1 & B1a	U/k if vacant

		shutters (resubmission ref C/03/0582/FP).				
C/00783/06	Building at, 8, Pound Hill, Cambridge	C/U from office to residential City DofD: "Change of use from office (use class B1) to residential (use class C3) consisting of 2 x one bedroomed flats"	2	31/03/2010	B1a	Appeared to not be vacant