

Planning Focus



Mark Dixon, Head of Rollits' Planning and Development team

Welcome to the latest edition of our Planning Focus newsletter

Central Government continues to promote residential development, and in this issue we are reporting on the Housing and Planning Bill. As ever the devil will be in the detail, but it is our feel from our industry clients that the planning system continues to be largely an obstacle rather than a catalyst for new development. Perhaps the new measures for the development of brownfield sites will assist, and our clients have already welcomed the indefinite extension of PD rights to convert offices to residential.

We hope that this newsletter is of interest to you and please do not hesitate to contact myself or any one of the team if you wish to discuss any aspect in greater detail.

Fixing the Foundations Creating a More Prosperous Nation

Earlier this year the Government revealed its housing and planning proposals in the productivity plan "Fixing the Foundations: Creating a More Prosperous Nation". The proposals aim to increase the number of houses being built and specifically houses that people can afford to buy.

Here we take a look at the steps being taken by the Government to implement the proposals set out in the productivity plan.

Housing and Planning Bill 2015-2016

The new Housing and Planning Bill 2015-2016 has been introduced by the Government with the stated aim of realising the development of 1.3 million homes by 2020.

The key measures introduced by the Bill are:

1. Starter homes – a legal duty will be placed on Councils to provide 200,000 starter homes on all reasonably sized new development sites. These starter homes will be offered at a price which is at least 20% less than the market value. It is unknown at this stage what the definition of reasonably sized development sites will be.

The Secretary of State is given the power in the Bill to draft regulations which will allow a Council to only grant planning permission for residential development if the starter homes requirement is met. It is envisaged that the starter homes requirement may include either a planning obligation to provide a proportion or number of starter homes as part of a development,

or the payment of a contribution to the Council towards the off-site provision of starter homes.

2. Local plans – Councils are under an obligation to produce a Local Plan by 2017;

Currently only 65% of Councils have an adopted plan and 20% of Councils do not have an up to date plan. The Government is tackling this issue by placing a duty on Councils to produce a local plan by 2017 otherwise the Government will intervene and write a local plan, in consultation with local people, to accelerate production.

The Housing and Planning 2015-2016 Bill introduces the power for the Secretary of State to prepare or revise a local plan or give directions to the Council in relation to the preparation or revision of the local plan where the Secretary of State thinks that a Council is failing or omitting to do anything necessary for them to do in connection with the preparation, revision or adoption of the local plan.

It is unknown whether Councils must adopt a local plan by 2017 in order to avoid intervention or merely publish a draft local plan. The exact date in 2017 by which the local plan must be produced is also awaited.

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Also in this issue

Permitted development rights opportunities

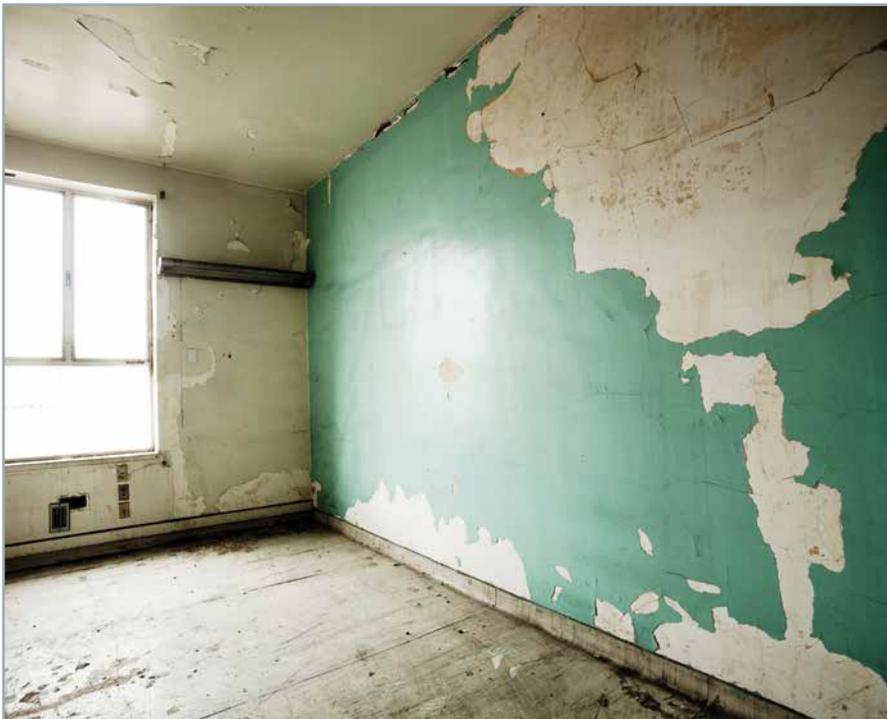
New National Infrastructure Commission

Community Infrastructure Levy under review

Suspended prison sentence given to Mr Fidler

Permitted development rights opportunities

The Town and Country Planning (General Permitted Development) (England) Order 2015 came into force on 15 April 2015 which simplified and amended permitted development rights in England. Permitted development rights grant deemed planning permission for certain classes of development so that an express planning application is not required.



Permitted development rights for offices

Class O of the Order includes a temporary permitted development right until 30 May 2016 for a change of use from offices (Class B1 (a)) to dwellinghouses (Class C3). On 12 October 2015 it was announced that this right will be made permanent as part of the package to encourage the development of housing.

There are a number of exclusions whereby development is not permitted under the permitted development rights and an express planning application would be required and these include where:

- The building is in an exempt commercial area;
- The building was not used as an office on 29 May 2013, or if not in use, when it was last in use;
- The site is a safety hazard area or a military explosives storage area;
- The building is listed or in the curtilage of a listed building; or
- The site is or contains a scheduled monument.

Before beginning any development, the developer must apply to the Council for a determination of whether prior approval is required for:

- Transport and highways impacts;
- Contamination risk; or
- Flooding risk.

It has also been announced that rights will be granted in the future to demolish offices and build new houses. Further details are awaited; however, the rights will be subject to limitations and exclusions similar to those above.

The Government also plans to introduce a new permitted development right for a change of use from light industrial or laundrette to residential use. Again, this will be subject to limitations and exclusions and further details are awaited.

It is important to note that where a permitted development right applies, planning permission and building regulations approval may need to be obtained for any works undertaken to implement the change of use.

Permitted development rights for agricultural buildings

Classes Q, R and S of the Order grant permitted development rights for a change of use from an agricultural building to either a dwelling house, a state funded school or a registered nursery or a "flexible use". A flexible use includes any use falling within the following use classes:

- Class A1 (shops)
- Class A2 (financial and professional services)
- Class A3 (restaurants and cafes)
- Class B1 (business)
- Class B8 (storage and distribution)
- Class C1 (hotels)
- Class D2 (assembly and leisure).

Class Q also includes a permitted development right for all building operations reasonable necessary to convert the agricultural building to a dwelling house.

Each permitted development right is subject to conditions and restrictions which must be carefully considered before any development commences to ensure the permitted development rights apply and an express planning application is not required. Certain permitted development rights also require the prior approval of the Council of certain matters before any development is commenced.

For example, change of use to a dwelling house will not be permitted in a number of circumstances, including:

1. Where the floor space exceeds 450 sq m;
2. Where the development comprises more than 3 dwelling houses;
3. If the building is listed; and
4. The property must have been used as an agricultural unit on 20 March 2013 or for ten years before exercising the right, where the agricultural use commenced after this date.

This list is not exhaustive and therefore the conditions must be carefully considered before any development is commenced. An application must also be made to the Council for determination as to whether their prior approval is required for matters including transport, highways, noise, contamination, flooding, design and external appearance and whether the location of the building makes the change of use impractical or undesirable. Any development for a change the use from an agricultural building to a dwelling house must be completed within 3 years from the prior approval date.

New National Infrastructure Commission

The Government created the National Infrastructure Commission ("NIC") on 5 October 2015, which it has described as "an independent body that enables long term strategic decision making to build effective and efficient infrastructure for the UK".



Lord Andrew Adonis (the former Cabinet Minister and Transport Secretary) will chair the newly formed NIC, which will start work immediately to provide unbiased advice to the Government and Parliament on the UK's future infrastructure needs.

The NIC's roles include:

- To create a plan of infrastructure needs in each Parliament, which will include the Government's plans for the following 5 years;

- To prioritise future large-scale investment for London's public transport infrastructure;
- To ensure energy infrastructure is invested in to meet future demand efficiently;
- To create an assessment of the UK's infrastructure needs for the next 30 years; and
- To publish advice to the Government on the above issues.

Most importantly, the NIC will work to transform the transport infrastructure of the Northern Cities by developing a plan to radically improve the connectivity of the Northern Cities.

The Government have brought out Guidance "National Infrastructure Commission: terms of reference" which explains the NIC's review of investment in the North will be two stage:

1. The first stage will be to work with the Department for Transport, Transport for the North and its member authorities and national partners to establish an evidence base and options for long-term future investment in transport infrastructure in the North, both on rail and by road, with a view to improve connectivity between cities;
2. The second stage will be to evaluate the evidence and options identified in the first stage and provide independent advice to the Government on the future investment priorities to improve connectivity between cities.

Further information will be published by the 2016 Budget.

There is currently no statutory framework to govern the NIC; however it is expected that legislation will be created shortly.

Community Infrastructure Levy under review



The Department of Communities and Local Government ("DCLG") have announced they are reviewing the Community Infrastructure Levy ("CIL").

The review will consider:

1. Whether CIL is meeting its objectives;
2. The relationship between CIL and section 106 Agreements; and
3. How the reliefs and exemptions operate.

The DCLG has created a questionnaire, which is available online, and is seeking the views of local authorities, developers, surveyors, lawyers and consultants. Should you wish to make a submission, the closing date for completing the questionnaire is 15 January 2016 however responses before 24 December 2015 are preferable.

Fixing the Foundations: Creating a More Prosperous Nation Continued from cover...

The Government is considering exactly how to deal with Councils who do not produce a local plan by the deadline and further details are expected shortly.

The Government also proposed earlier this year to speed up the process of creating and amending a local plan so that local plans can respond to the needs of local people. On 15 September 2015 a Local Plans Expert Group was created, to consider how to simplify and streamline the process of creating a local plan. The Group has requested opinions from various interested parties regarding steps which could be taken to improve the process and the deadline for responses was 23 October 2015. The Governments proposals to speed up the local plan process will be published shortly.

3. Brownfield sites – automatic planning permission will be granted on brownfield sites to facilitate the development of new build houses;

The Government announced earlier this year that it plans to relax the planning rules for brownfield sites to encourage development and home ownership. The aim is to provide low cost houses for first time buyers and housing association tenants with the right-to-buy.

All Councils will keep a register of brownfield sites which are suitable for housing and it is these sites which will be granted automatic planning permission for housing.

Automatic planning permission will be granted subject to the Council's approval of certain matters. Further details are

awaited regarding the matters to be approved; however this will most certainly include issues such as contamination risks and flooding risks.

A development order will be brought into force by Parliament in the future which will grant planning permission in principle to land allocated for development in the brownfield registers. It is unknown how long the development order will be in force for.

Further details are awaited about the type, design and number of housing which automatic planning permission will be granted for as well as the exact details of how this scheme will work in principle.

4. Simplification of the compulsory purchase regime;

5. Speeding up the neighbourhood planning system; and

6. Self-build houses – a duty will be placed on Councils to allocate sites for self-build houses so that people can find plots to build or commission their own house. This will be coupled with a requirement to grant permission in principle for the development of a house. Councils will be also obliged to keep a register of people seeking to acquire land in order to build or commission their own house. The aim of the proposals is to double the number of homes being self-built by 2020. Any plots must have access to a public highway and have connections to electricity, water and sewerage.



Suspended prison sentence given to Mr Fidler

Everyone is aware of Mr Fidler, who built a castle without planning permission and concealed the castle behind a stack of hay bales.

The latest instalment in the saga is that Mr Fidler has been sentenced to three months imprisonment for being in contempt of court for failing to comply with the enforcement notices. The sentence has been suspended for six months to allow Mr Fidler to demolish the castle and comply with the enforcement notices.



Information

If you have any queries on any issues raised in this newsletter, or any planning or development matters in general please contact Mark Dixon on 01482 337286.

This newsletter is for the use of clients and will be supplied to others on request. It is for general guidance only. It provides useful information in a concise form. Action should not be taken without obtaining specific advice. We hope you have found this newsletter useful.

If, however, you do not wish to receive further mailings from us, please write to Pat Coyle, Rollits, Wilberforce Court, High Street, Hull, HU1 1YJ.

The law is stated as at 1 December 2015.

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