

# Planning Focus

## General Election Special

The upcoming General Election is set to be one of the most keenly contested political battles for some time. The political parties have now published their Manifestos to varying degrees of fanfare. Within this Newsletter we have sought to set out some of the main planning and development policies contained within each Manifesto.

Please note that we have not commented on the Manifestos of either Plaid Cymru or the SNP on the basis that any reforms to the planning system proposed by them will be focussed on Wales and Scotland respectively.



Mark Dixon, Head of Rollits' Planning and Development team



The Conservative Party proposes significant investment in new infrastructure projects, such as railways and roads and also pays particular attention to the need for more affordable housing.

The proposal is to build 200,000 Starter Homes which will be sold at a 20 per cent discount, and will be built exclusively for first time buyers under the age of 40. Both the Right to Buy and the Help to Buy schemes will be extended and a new Help to Buy ISA will be introduced.

It is also proposed as follows:

1. When it comes to planning decisions, local people are in charge. This includes the requirement that when new homes are granted planning permission, local communities must know up front that necessary infrastructure such as schools and roads will be provided.
2. There will be a creation of a £1 billion Brownfield Regeneration Fund designed to unlock the construction of homes on brownfield land for additional housing. Local Authorities will be required to have a register of what brownfield land is available, and ensure that 90% of "suitable" brownfield sites have planning permission for housing by 2020. Housing Zones will be funded to transform brownfield sites into new housing.
3. The Green Belt and other environmental designations will continue to be protected.

4. A new Right to Build, requiring councils to allocate land to local people to build or commission their own home.
5. More say will be given to local traders on issues such as minor planning applications, cleaning and parking.
6. Onshore wind development will now receive less support with the end of any new public subsidy and a change to the law will be made so that local people have the final say on windfarm applications.



The Labour leader Ed Miliband, following the release of the Manifesto, has made it clear that he intends to keep the planning laws as they are, but with one change, which is to put brownfield first.

The priority of brownfield land is not specifically referred to in the Manifesto, although it is made clear that Labour will ensure that at least 200,000 homes per year are built by 2020 by implementing the recommendations of the Lyons Review.

It is the reference to the Lyons Review that is perhaps the most significant as this document provides extensive recommendations that Labour appear to suggest will be implemented.

The Lyons Review concluded that fundamental upheaval in the planning system should be avoided. However there are a number of areas in which the system

should be improved to ensure that an adequate supply of land is identified and brought forward for development through local plans.

These measures include:

1. The National Planning Policy Framework should be updated to establish a brownfield first policy with a sequential test to be applied to development;
2. A deadline for Local Authorities to submit a Local Plan to the Planning Inspectorate for examination within a set time frame (December 2016);

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3. The Introduction of "redline" applications for sites of less than ten units (a plan of the site with a short statement justifying the design and dealing with the likely impacts); and
4. The minimum threshold for affordable housing should be reversed to ensure that all development makes a reasonable contribution to affordable housing provision.

One issue that is directly referred to in

the Manifesto is a new 'use it or lose it' power to encourage developers to build. This is further explained in the Lyons Review whereby it is proposed that the life of a planning permission will be reduced to 2 years with higher fees applying for the renewal of expired permissions. Equally, the Review proposes that greater substantive work should be required to count as the commencement of development and Local Authorities should have powers to levy a charge equivalent to council tax if land allocated in a Local Plan with or without planning permission is not brought forward within 5 years. Also, Compulsory Purchase Order powers should be strengthened and streamlined to make it easier for public bodies to acquire land where it is not brought forward and where it is a priority for development.

In general terms, the Manifesto does refer to increasing competition in the housebuilding industry by backing small builders, including through the Help to Build scheme. More affordable homes will be built by prioritising capital investment for housing and by reforming the council house financing system.

Also, to boost the housing needed, Labour will start to build a new generation of garden cities.

Reference is also made to the Mansion Tax being introduced on properties worth over £2 million.

Councils will also be given the power to require particular types of shops to apply for planning permission, allowing them to restrict the number of payday lenders or other shops that are clustering on a single high street.



The Liberal Democrats have set a target of increasing the rate of house building to 300,000 a year. Within the first year of the next Parliament a long-term plan will be published to show how this will be achieved.

The Manifesto does however give details on a number of proposals including the development of at least 10 new garden cities in areas with local support, as well as encouragement to Local Authorities to follow these principles on a smaller scale, developing new garden villages or suburbs as part of their plans for growth.

Ambitious targets for development on unwanted public sector sites through the HCA will be set, with powers given to the Local Authority to ensure development on land that the public sector has an interest.

The Liberal Democrats also propose the following:

1. To create a Community Right of Appeal in cases where planning decisions go against the approved local plan, or a local plan that is emerging and has undergone substantive consultation.
2. Not to allow developers' appeals against planning decisions that are in line with the local plan
3. Not to allow planning appeals solely on the basis of challenges to the 15 year master plan.

Liberal Democrats also prioritise development on brownfield and town centre sites and also wish to bring to an end to the permitted development rights for converting offices to residential.

Self-build is also noted with Local Authorities being required to keep a register of people who want self-build plots in the local area and plan to meet this demand, including through affordable land (plots on which self-builders can take long term lease at an affordable rent and build or commission a home).

Planning law will also be updated to introduce the concept of landscape scale planning and ensure new developments promote walking, cycling, car sharing and public transport and improve rather than diminish access to green spaces.

There is also a significant focus on improving the number of affordable homes, and this includes measures such as scrapping plans to exempt smaller development schemes from the obligation to provide affordable homes.

Onshore wind will be encouraged in appropriate locations, ending "ideologically motivated interference" in local planning decisions for wind farms by Government Ministers.



As one would expect there is some focus on expanding mature renewable technologies such as wind energy and solar PV, in part by reducing planning constraints, including those for onshore wind.

The general aim of minimising encroachment onto undeveloped greenfield sites by reusing previously developed sites that have fallen into disuse is also noted, whilst a target of 500,000 social rented homes is given.

Proposals that relate more to planning procedure include:

1. Repealing the National Planning Policy Framework ("NPPF") and in particular the presumption in favour of development;
2. Restricting the ability of the Secretary of State to call in applications.

3. Restricting the right of applicants to appeal only where there has been an error in the planning process.

4. Strengthen local authorities powers to prevent changes of use for important community facilities such as local shops, pubs and meeting halls

5. Bring in business conservation areas, ensuring basic shops are available in walking distance and restrict number of payday lenders and power of supermarkets

6. Introduce a community right of appeal where a development is non compliant with a neighbouring plan or local plan.



UKIP have proposed a number of targets within their Manifesto including the construction of one million homes on brownfield sites by 2025 and the construction of 500 affordable rent homes every year.

UKIP would require the Environment Agency to compile a National Brownfield Sites Register and provide a remediation assessment where appropriate. Developers will in turn be offered incentives to build on brownfield sites, including:

1. Grants of up to £10,000 per unit to carry out essential remediation work
2. Properties built on brownfield will be exempt from SDLT up to the £250,000 threshold
3. A grant to cover the cost of indemnity insurance for decontaminated land

In order to achieve this focus on brownfield development, UKIP will replace the NPPF and introduce fresh national planning guidance that will prioritise brownfield sites for new housing and in turn protect the green belt.

The removal of the NPPF will also free Local Authorities from government imposed minimum housing numbers and reverse current policies of facilitating large scale rural residential development.

UKIP will promote smaller 6-12 unit developments in rural areas to extend existing villages and encourage local authorities to require a proportion of

self build plots to be provided in all large developments.

Affordable housing can be built by identifying long term dormant land held by central and local government. Planning regulations can in turn be relaxed for the conversion of off-high street commercial and office space and other existing buildings to affordable residential use.

Large-scale developments will also be capable of being overturned by a binding local referendum triggered by the signatures of 5% of electors within a planning authority area collected within 3 months.

The cost and bureaucracy of planning applications will be reduced by merging Planning and Building Control departments in local authorities.

UKIP are very clear that they will not introduce any form of Mansion Tax and that they are against on-shore wind farm development.

## Summary...

There are a number of similarities between all of the Political Parties. They all recognise that there is a need for more housing, especially in relation to affordable housing. Equally, they all consider the priority to be the development of brownfield land. Each Party goes into varying degrees of detail as to how the development of brownfield land can be achieved but one can safely assume that this will be the subject of planning reform in the next Parliament, most likely through amendments to the NPPF. How this will affect the on-going Local Plan site allocation process will be viewed with interest.

There is also a general consensus on the importance of Garden Cities and the need for an expansion in the self-build scheme, supporting small scale builders.

UKIP, the Green Party and the Liberal Democrats all refer to the possibility of a new third party right of appeal against certain planning permissions (although UKIP do go somewhat further than this by suggesting that a referendum should be called if enough support is obtained). Third party rights of appeal have been mooted for some time now but never progressed so it will be interesting to see if this ever becomes a priority of the next Government.

Onshore wind development has a mixed reception with the Conservative and UKIP policies being contrary to that of the Liberal Democrats and the Green Party.

The "use it or lose it" provisions of the Labour Party as well as the further recommendations in the Lyons Review certainly suggest that one would expect further planning reforms should Labour be able to implement the same, although whether the proposed Mansion Tax will be required given the recent reforms to Stamp Duty Land Tax will be open to debate.

What is abundantly clear from all of the Parties is the commitment to the

protection of the Green Belt. However, one must be careful to distinguish Green Belt development from development in the open countryside, which are two separate issues. Equally, how such commitments will affect Local Authorities such as the City of York who are surrounded by Green Belt and have no choice but to develop a portion of the same in order to expand the settlement will again require further thought.

*David Myers*

## Rollits Planning and Development team



Left to right: Libby Clarkson, Mark Dixon, David Myers

# New General Permitted Order



On 15 April 2015 The Town and Country Planning (General Permitted Development) Order 2015 ("the GPDO") came into force which will amend the law relating to permitted development rights.

Planning permission is required before any development can lawfully be carried out on land. Development is defined in planning law as "building, engineering, mining or other operations in, on, over or under the land or the making of a material change in the use of any buildings or other land." This definition is extremely wide and covers nearly all types of development and therefore permitted development rights are important as they allow certain classes of development or changes of use to go ahead without the need for an express planning application to be made.

The GPDO will introduce the following new permitted development rights:

- The conversion of a building used as a shop, or for financial and professional services, or as a betting office, pay day loan shop or casino to restaurants or cafes;
- A change of use from a shop or betting office to premises providing financial and professional services;
- The conversion of retail premises, premises used for financial and professional services, or betting offices or payday loan shops to assembly and leisure;
- The conversion of casinos or amusement arcades to dwellinghouses;

- The conversion of premises used as storage and distribution to dwellinghouses;
- The temporary use of a building or land for commercial film-making;
- The provision of click and collect facilities within the curtilage of a shop;
- The increase of the size of loading bays for shops by no more than 20%;
- The extension of buildings used for waste facilities; and
- The installation of solar PV panels, with a generating capacity of up to 1 megawatt, on roofs of non-domestic buildings.

If you are considering carrying out any development which falls within one of the permitted development rights above then it is important to obtain legal advice before carrying out the development as each permitted development right has limitations which may mean that an express planning application is required. Each permitted development right also contains conditions which must be adhered to otherwise the property will not have deemed planning consent and enforcement action could be taken by the local authority. For example, some permitted development rights require the prior approval of the local planning authority before development or the change of use is commenced.

In addition to the introduction of new permitted development rights, the following changes have been made:

- The permitted development right for larger home extensions has been extended until May 2019; and

- Permitted development rights for extensions to non-domestic premises, (which include offices, shops, industrial buildings and schools) are now permanent and not time-limited.

*Libby Clarkson*

## 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 21 April 2015.

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