

Planning Legislative Changes and the Planning for the Future White Paper

Briefing for Towns and Communities Overview and Scrutiny Sub Committee

1 Introduction

- 1.1 The purpose of this briefing is to outline the key proposals and changes to the planning system that have come forward in 2020. The briefing covers:
- i. changes to planning legislation;
 - ii. the government's proposals for changes to the current planning system; and
 - iii. the Planning for the Future White Paper.

2. Changes to planning legislation in 2020

- 2.1. There have been a number of changes to planning legislation this year, as set out below:

Permitted development rights relating to takeaways – March 2020

- 2.2. This amendment allows a change of use from restaurants and cafes and drinking establishments (A3 and A4 uses) to a temporary use for the provision of takeaway food. This amendment was in response to the Covid19 pandemic and the restrictions placed on these businesses during lockdown. Initially this applied for a year but this has now been extended to 23 March 2022.

Permitted development rights relating to emergency development – April 2020

- 2.3. This amendment introduces a new permitted development right to allow local authorities and certain health bodies to carry out development of facilities required in undertaking their roles to respond to the spread of coronavirus. Initially this applied until the end of 2020, but it has now been extended until 31 December 2021.

Permitted development rights to support economic renewal - August 2020

- 2.4. In August the government made a number of amendments to permitted development rights to allow development to assist in supporting the Government's economic renewal package following the Covid19 outbreak. The amendments include:
- Enabling a local authority to hold a market for an unlimited number of days until 23rd March 2021.

- Temporary permission for local authorities to use any land for holding a market until March 2022
- Permanent permitted development right to allow additional storeys to be constructed on existing purpose-built blocks of flats to create new homes, subject to prior approval.
- Requiring new homes delivered through permitted development rights to provide adequate natural light for the occupants.

Business and Planning Act - August 2020

2.5. The Business and Planning Act 2020 aims to help restart the economy in response to the Covid19 pandemic. It introduced a range of new measures to help businesses to quickly adjust and adapt to changing circumstances. This includes:

- A streamlined consent route to allow businesses to obtain a licence to place temporary furniture, such as tables and chairs outside of cafes, bars and restaurants quickly. The licence negates the need to apply for separate planning permission. This applies up to 21st September 2021
- The extension of certain permissions and consents (such as listed building consents) recognising the potential delays resulting from Covid19. Permissions that would expire if they have not commenced before 31 December 2020 will have an extended period for commencement until 1 May 2021.
- Greater flexibility for construction working hours up until April 2021

Permitted Development rights relating upward extensions - August 2020

2.6. The amendment allows existing houses which are detached, semi-detached or in a terrace to be extended upwards to provide additional living space by constructing additional storeys, subject to prior approval.

Permitted development relating to demolitions - August 2020

2.7. This amendment allows the demolition of single detached buildings and the construction of new dwelling houses in their place, subject to prior approval. This applies to single purpose-built detached blocks of flats) other single detached buildings, established for Class B1(a) offices and/or Class B1(b) research and development and/or Class B1(c) industrial process.

Changes to the use classes - September 2020

2.8. Introduces three new use classes with the aim of supporting economic renewal and help businesses adapt to changing circumstances.

- Class E (Commercial, business and service) – including retail, restaurant, office, financial/professional services, indoor sports, medical and nursery uses along with any other services which it is appropriate to provide in a commercial, business or service locality. The new class E subsumes the former use Classes A1, A2, A3, B1a, B1b, B1c and D1. Pubs, takeaways cinemas, concert halls, bingo halls and dance halls all became Sui Generis uses. (Sui generis buildings are those that do not fall within any particular use class).
- Class F.1 (Learning and non-residential institutions) – including non-residential educational uses, and use as a museum, art gallery, library, public hall, religious institution or law court; and
- Class F.2 (Local community) – including use as a shop of no more than 280 sqm mostly selling essential goods, including food and at least 1km from another similar shop, and use as a community hall, area for outdoor sport, swimming pool or skating rink.

Removal of permitted development rights relating to demolition November 2020

- 2.9. The demolition of any building used as a concert hall, venue for live music performance or theatre is no longer classed as permitted development. This permanent change is to protect these venues, preventing their unnecessary loss as a result of having to close due to the Covid19 pandemic.

Nationally described space standards

- 2.10. From 6th April 2021 dwellings delivered by permitted development rights must meet the nationally described space standard. The standard sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling heights.

3. Proposed changes to the Current Planning System

- 3.1 In August 2020 the Government consulted on changes to the current planning system with the aim of improving its effectiveness. These changes were separate to those contained within the White Paper, which is explored in the next section of this report.
- 3.2 The Council submitted a formal objection in response to this consultation and raised serious concerns about the potential impact of the proposals. Details of where the Council's response can be viewed are set out in Annex 1.
- 3.3 The four main proposals in the consultation on Changes to the Current Planning System are:
- i. Changes to the standard method for assessing local housing need

- ii. Securing of First Homes through developer contributions in the short term until the transition to a new system
- iii. Supporting small and medium-sized builders by temporarily lifting the small sites threshold below which developers do not need to contribute to affordable housing
- iv. Extending the current Permission in Principle to major development

Changes to the standard method for assessing local housing need

- 3.4 The standard method was introduced by the Government in 2018 through the revised National Planning Policy Framework. The intention was to make the process of assessing the local housing need simpler, quicker and more transparent. The standard method identifies the minimum number of homes that a local authority should plan for in an area. Through this consultation the Government is seeking to make amendments to the standard method with the aim of ensuring that the Government's target for 300,000 new homes per year will be met nationally.
- 3.5 Under the current standard method, Havering's local housing need is 1,638 homes per annum. The revisions to the standard method see this figure increase to 1,975 homes per annum. The proposed changes do not impact on the emerging Local Plan which seeks to meet the current London Plan housing target of 1,170 homes per annum. However, any future update to the Local Plan would need to take account of the standard methodology.

Securing of First Homes through developer contributions

- 3.6 Earlier this year the Government consulted on the introduction of the First Homes Scheme. This scheme will provide homes for first-time buyers with a 30% discount against market value. The consultation sets out detailed changes to the current planning system that are needed to support its delivery.
- 3.7 The detailed proposals include:
- At least 25% of all affordable housing units secured through developer contribution should be First Homes.
 - Where cash contributions to affordable housing are secured instead of onsite contributions, at least 25 per cent must be used to secure First Homes.
 - For the remaining 75% of affordable housing secured through developer contributions, two options are proposed:
 - Option 1: If the local authority has a policy on affordable housing tenure mix, the policy should be adhered to but with First Homes delivering a minimum of 25% of the affordable housing products.
 - Option 2: A local authority and developer can negotiate the tenure mix for the remaining 75% of units.

- The minimum discount for First Homes should be 30% from market price and local authorities will have discretion to increase the discount to 40% or 50% if it can be evidenced through the Local Plan making process
- First Homes will be exempt from the Community Infrastructure Levy (CIL), in line with other affordable housing tenures.

Supporting small and medium-sized developers

3.8 The Government supports SMEs and has already introduced legislation that provides for local authorities to allow SMEs to defer Community Infrastructure Levy payments. The Government is now proposing to reduce the contributions required of SMEs in the short term to help economic recovery from Covid-19. This includes:

- Temporarily raising the threshold for when affordable housing contributions should be required from 10 units to 40 or 50 units. The intention is to encourage more small sites to come forward for development.
- Current policy sets a site threshold of at least 0.5 hectares below which affordable housing contributions should not be required. The Government proposes increasing this threshold in proportion to the number of homes threshold.

Extension of the Permission in Principle consent regime

3.9 Permission in Principle is a route to obtaining planning permission for housing-led development that separates consideration of matters of principle for the proposed development from the technical detail. The purpose of this approach is to provide more certainty to developers on whether a site is considered suitable for the proposed development by the Local Planning Authority.

3.10 Permission in Principle consists of two stages:

- Stage 1 (Permission in Principle): Establishes whether a site is suitable in principle based on use, location and the amount of development.
- Stage 2 (Technical details consent): Assesses technical details.

3.11 Permission in Principle by planning application was introduced for minor housing-led development in 2018. Local Planning Authorities also have the power to grant Permission in Principle for sites identified on Part 2 of its Brownfield Land Registers. Havering's register does not contain a Part 2 list.

3.12 The key changes include:

- Extending Permission in Principle to major developments that are not subject to Environmental Impact Assessments or habitats assessments.

- Lower application fees, preferably a banded fee structure, with a fixed fee per hectare and a maximum fee cap.
- Automatic granting of Permission in Principle for sites on Part 2 of the brownfield register.

4 Planning for the Future White Paper

- 4.1 In August 2020 the Government published a new White Paper “Planning for the Future” setting out their ambitions to make the planning system in England simpler, faster and more effective.
- 4.2 The Government have identified a number of concerns about the current planning system, and have stated that planning today feels outdated and unnecessarily complex, buried by legislation and case law. The view expressed in the White Paper is that decisions are based on a case by case basis rather than determined by clear rules. The White Paper goes on to say that adoption of Local Plans and policy documents take too long, the focus on documentation over data compromises quality and discourages engagement and the public does not trust local authorities to make the best decisions.
- 4.3 The White Paper proposes radical reforms to the planning system with the following overarching aims:
- To streamline the planning process with greater democracy taking place more effectively at the plan-making stage.
 - To digitalise and modernise the planning process
 - A new focus on design and sustainability
 - To improve infrastructure delivery through reform of developer contributions.
 - To ensure more land is available for the homes and development people and communities need, and support renewal of our town and city centres.
- 4.4 The Council submitted a formal response to the White Paper consultation generally supporting the overarching aims but raising serious concerns about the proposals that sit underneath these aims. Details of where the Council’s response can be viewed are set out in Annex 1.
- 4.5 The key proposals in the White Paper include:
- Simplifying the role of Local Plans to identify land under 3 categories; *Growth* areas suitable for substantial development, *Renewal* areas suitable for development, and areas that are *Protected* (including green belt, conservation areas, local wildlife sites, flood risk areas and important greenspace). Growth areas would automatically be granted outline planning permission for the principle of development.

- Streamlining the Local Plan process by abolishing the duty to co-operate and sustainability appraisals and replacing the current tests of soundness with a single sustainable development test.
- Introducing a statutory duty for local authorities to adopt a new Local Plan 30 months from the legislation being brought into force, or 42 months for local planning authorities who have adopted a Local Plan within the previous three years. Reviews will then be required every 5 years. Failure to meet these targets would result in government intervention.
- Greater emphasis on engagement with the community at the Plan making stage and less so at the planning application stage.
- Creating a national standard method for establishing housing requirement figures, which ensures enough land is released in the areas where affordability is worst, to stop land supply being a barrier to enough homes being built. This would factor in land constraints and opportunities to more effectively use land.
- A greater focus on design and making design guides and codes a required aspect of development management, with a greater level of importance.
- A requirement for each local authority to appoint a chief officer for design and place-making.
- Introduction of a fast-track for beauty through changes to national policy and legislation to incentivise and accelerate developments which reflect local character and preferences.
- Ambitious improvements in the energy efficiency standards for buildings to help deliver our world-leading commitment to net-zero by 2050.
- A new 'all-in-one' Infrastructure Levy (replacing s106 and CIL) set at a national rate. The aim is to remove long negotiation talks and to deliver development more quickly, without missing out on developer contributions.
- Expanding the scope of the Infrastructure Levy to capture changes of use through permitted development rights
- Giving Local Authorities more spending power, with Infrastructure Levy payment off-set by in-kind delivery of affordable and/or First Homes on site; and
- Strengthened enforcement powers and sanctions with more fines and enforcement activity from local authorities.

- 4.6 The Government are currently considering the responses to the consultation and we await the outcome of the analysis and further detail on the Government's next steps.

Annex 1: Useful Links

- Changes to the Current Planning System:
<https://www.gov.uk/government/consultations/changes-to-the-current-planning-system>
- The council's consultation response to Changes to the Current Planning System:
Doesn't appear to be published on the decisions pages of the web?
- Planning for the Future White Paper:
<https://www.gov.uk/government/publications/planning-for-the-future>
- The council's consultation response to the White Paper:
<https://democracy.havering.gov.uk/ieDecisionDetails.aspx?ID=5801>