



Department for
Communities and
Local Government

**DCLG
NEWSLETTER**

August 2013

By email only

Local Authority Chief Executives

PLANNING UPDATE NEWSLETTER

INTRODUCTION

Welcome to the summer edition of the Planning Directorate newsletter which aims to bring you up to date with the Government's programme of planning reform. There has been a significant amount of work undertaken since the last newsletter in December 2012 and we highlight the issues you should be aware of, together where possible with an indication of what is coming up. I hope you find it useful and please feel free to give me [feedback](#).

Steve Quartermain
Chief Planner

GROWTH AND INFRASTRUCTURE ACT - IMPLEMENTATION

The Growth and Infrastructure Act achieved royal assent in April 2013. The Act can be viewed [here](#). Key sections which are now in force include:

- **Section 3:** Compulsory purchase inquiries: costs
- **Section 4:** Permitted Development Rights for changes of use prior approvals
- **Section 6:** Limits on power to require information with planning applications
- **Section 7:** Section 106 affordable housing
- **Section 8:** Disposals of land held for planning purposes
- **Section 16:** Restrictions on right to register land as a town or village green
- **Section 23:** Removal of Planning Act 2008 consent and certification requirements
- **Sections 24-25:** Modifications to Special Parliamentary Procedure

Ongoing work on implementation includes

- **Section 1:** Council Performance. The Government's response to its [consultation](#) on the detail of how this will work was published in June, alongside the [criteria](#) to be used for designating authorities. The intention is to make the first designations by the end of October, should any authorities fall below these standards. In support of this policy an important change is being made to the way the department collects and records data on the speed of decisions, beginning with the returns for the first quarter of 2013-14. For major development, information is now being collected on the extent to which applications are subject to a planning performance agreement, an extension of time (if agreed in writing with the applicant) and/or are subject to Environmental Impact Assessment - which will allow the timeliness of decisions to be assessed against the appropriate statutory period or such longer period as has been agreed. The recent changes to permitted development rights are also reflected in relation to the categories of development for which information on prior notification is requested
- **Section 26:** New business and commercial categories for the Nationally Significant Infrastructure regime. The Government's response to its consultation on this was published in June and can be found [here](#). The Government intends to bring forward draft regulations by October 2013.

LOCAL PLANS

Good progress continues to be made on Local Plans with 73 per cent of local planning authorities now reaching publication stage or beyond. Where local authorities have yet to reach publication, we continue to work with the Planning Inspectorate and PAS on supporting authorities to help move plans forward. DCLG has a new team to lead this work - contact [Lucy Hargreaves](#) and [Tom Bristow](#) for more information.

NEIGHBOURHOOD PLANNING

Neighbourhood planning is gathering momentum. As of the beginning of July, over 550 communities have taken up the right to make a legally binding neighbourhood plan for their area, and more are joining them each week. Over 125 authorities now have a designated neighbourhood planning area. The first neighbourhood plan is now in force in Upper Eden, Cumbria, where 90 per cent of those voting said yes to the plan. Exeter St James and Thame both said a resounding 'yes' to their plans at referendums in May. Ministers have written to leading authorities seeking nominations for neighbourhood planning champions.

Locality, in partnership with RTPi/Planning Aid England and other partners are delivering a £9.5m Supporting Communities in Neighbourhood Planning programme. The 2-year programme offers practical, hands-on support and grants of up to £7,000 per neighbourhood area for communities to progress their plan or order. Full programme details can be found [here](#).

The latest window for local authorities to claim new burdens funding for supporting neighbourhood planning closed on 31 July. The £30,000 per neighbourhood planning area must be claimed in stages as a plan progresses: £5,000 once an area has been designated (authorities can claim for up to 20 designations this year), £5,000 once a plan is submitted for publicity and examination and £20,000 after a successful examination. This is to fund authorities' duty to support neighbourhood planning areas and to pay for examination and referendum.

RICS have launched a Neighbourhood Planning Independent Examiners Referral Service (NPIERS), with DCLG support, to make it easier and more cost-effective for local authorities and communities to find suitable examiners for their neighbourhood plans. A neighbourhood planning area will be provided with a choice of suitable candidates. More information [here](#). If you want to get in touch with the team please email [Tom Walker](mailto:Tom.Walker@RICS.org) (0303 444 1239).

MARINE PLANS (CONSULTATION) – DRAFT EAST ENGLAND INSHORE/OFFSHORE MARINE PLANS

On 16 July the Natural Environment Minister, Richard Benyon, launched the consultation on England's first draft marine plans, for the East Inshore and Offshore areas. These plans, which were prepared by the Marine Management Organisation (MMO), are the first of 11 plans for England, which will be produced over the next decade.

The draft plans have been produced in accordance with the Marine and Coastal Access Act 2009 and they cover the area from Flamborough Head to Felixstowe and out to the limit UK waters. These plans will be relevant considerations for all local authorities exercising functions that affect the East Marine Plan Areas. They will provide transparency for local communities, confidence for investors and promote the efficient use of our marine resources. This signals a new approach to the sustainable development of our seas.

The draft plans were produced following extensive stakeholder engagement. The MMO aims to have the adopted and published plans for the East inshore and offshore areas in place from 2014. Local authorities are encouraged to:

- View the draft plans and supporting documents;;
- Participate in a workshop to be convened in September, which will work through the implications of the plans for “implementing authorities”. Details will be circulated shortly.
- Alternatively, participate in one of nine drop-in sessions along the East coast, beginning on 23 July. Details are available [here](#). Local authorities are encouraged to publicise these sessions.
- Submit a formal representation through use of the MMO Connect consultation tool. Comments can also be made on spatially-expressed information through the Planning Portal.

The MMO is keen to continue to work closely with local authorities and others to ensure effective links with terrestrial planning. MMO marine planning staff are available to advise local authorities on any aspect of the marine planning process. Contact can be made by [email](#) (please include your contact details) or by phoning 0191 376 2790.

MAJOR INFRASTRUCTURE

In addition to the changes made to the major infrastructure planning regime through the Growth and Infrastructure Act 2013, you may wish to be aware of the following:

The [Hazardous Waste National Policy Statement](#) was approved by Parliament and designated by the Secretary of State (Defra) on 18 July.

The light touch review of Planning Act guidance is almost complete – we have published five out of the six guidance documents with the final one on compulsory acquisition to be published later in the summer. The guidance documents are:

- [Pre-application process guidance](#)
 - Associated development guidance
 - Examinations guidance
 - The Infrastructure Planning (Fees) Regulations 2010 guidance
 - Application Form guidance
- Updated guidance on awards of costs in relation to major infrastructure applications can also be found [here](#).
- The Department for Transport's draft Highway and Railway (Nationally Significant Infrastructure Projects) Order 2013 is currently going through the Parliamentary process. When in force this Order will ensure that only those highways and railways schemes that are genuinely of national significance use the Planning Act 2008 regime.

PLANNING GUIDANCE REVIEW

As set out in the Budget, the Government will publish significantly reduced planning guidance by summer 2013, in line with the recommendations of Lord Taylor of Goss Moor, providing much needed simplicity and clarity that will better support planning delivery and growth.

It is our intention to open the guidance web-based resource in beta test mode for public comment later this month. We will be seeking views on not only the content of the material, but also the format and style, and how the web-based resource works.

None of the current guidance will be cancelled until the final guidance is in place on the web-based resource.

The review has achieved an impressive reduction of over 90% in the guidance material enabling new guidance to focus only on what is really important to deliver an effective planning system that can drive sustainable development and growth. Presenting this dramatically reduced guidance in a new form, which makes the most of the benefits of digital technology, will save users time and money and remove any confusion over what is and is not Government Planning Practice Guidance.

PLANNING GUIDANCE: shale gas

On Friday 19 July we published [Planning Practice Guidance for Onshore Oil and Gas](#). This is guidance for industry, minerals planning authorities and local communities on how shale gas (and other onshore oil and gas) developments should proceed through England's planning system.

PLANNING GUIDANCE: renewable and low carbon energy

On 6 June the Secretary of State for Communities and Local Government made a written ministerial statement on local planning and onshore wind. A [letter](#) was sent to all Local Authority Leaders making them aware of the announcement.

As part of this, the Government announced it would issue shortly new planning practice guidance relating to onshore wind. The Government has explained that because of the urgent need for new guidance on this issue it has been published in advance of the web-based resource for Government Planning Practice Guidance. The planning practice guidance for renewable and low carbon energy guidance was published on 29 July and can be accessed at:

www.gov.uk/government/publications/planning-practice-guidance-for-renewable-energy

DEVELOPMENT MANAGEMENT – Permitted Development

On 30 May the following new permitted development rights came into force:

- Change of use from offices to residential, for a period of three years.
- Change of use from existing agricultural buildings to a range of new business uses.
- New retail ventures, financial and professional services, restaurants, cafes and businesses will be able to open for a single period of up to two years in buildings designated as shops, financial services, restaurants, pubs, hot food takeaways, business, non-residential institutions, and leisure and assembly.
- Thresholds increased from 235m² to 500m² for change between business uses.
- Permanent change of use to a state-funded schools from premises used as offices, hotels, residential and non-residential institutions, and leisure and assembly.
- For one academic year buildings in any use class will be able to be used as a state-funded school while permanent planning permissions are secured.
- Larger extensions to homes, offices and shops in non-protected areas for a period of three years. Further information on this is available [here](#).

- Removal of the requirement for prior approval of siting and design of broadband cabinets and telegraph poles in protected areas (not Sites of Special Scientific Interest) for a period of 5 years. On 1 June the Department of Media Culture and Sport published a sector-led and owned code of best practice.

The statutory instrument bringing these changes into force is available [here](#). We will shortly be consulting on further changes to permitted development rights to allow change of use between agricultural buildings/retail premises and residential use. We will also shortly be bringing forward regulations to implement changes to permitted development rights for mobile broadband infrastructure, following our recent consultation on this issue. Prior to regulations being laid a sector-led and owned code of best will be published by the mobile industry.

DEVELOPMENT MANAGEMENT – Planning Application Fees

Parliament has now approved the amendments to the fees for planning applications regulations - in summary the amendments:

- enable the planning application fee to be paid to PINS where planning applications are made directly to them.
- allow for planning applications which replace conservation area consent to continue to be free (Regulation 4)
- introduce measures to refund the planning application fee where a planning application is not determined within 26 weeks (these will not be applied retrospectively to applications on hand).
- introduce a fee for the use of a prior approval where planning permission is granted for a change of use. (Regulation 6),
- include two minor technical amendments - the fee payable to extend the time limit of a partially implemented outline permission will be the same as any other time extension application and the correction of a typographical error in the 2012 regulations in the agricultural development category (Regulation 7).

A copy of the draft instrument, which will come into force on 1st October 2013, can be found at <http://www.legislation.gov.uk/ukdsi/2013/9780111539293/contents>. The final regulations will be unchanged from the draft.

DEVELOPMENT MANAGEMENT - Appeals

Following the review of planning appeal procedures, we will implement changes later in the year which will make the process faster and more transparent, and improve consistency and certainty in decision-taking timescales. The main proposals in the consultation paper were well supported, and there will be an announcement later in the year on the final detail of the changes. The Planning Inspectorate will also be extending bespoke timetables to planning inquiries that will sit for three days or more. It is intended that this change will be introduced in August.

DEVELOPMENT MANAGEMENT – Award of Costs

All parties to a planning appeal are expected to behave reasonably, in accordance with the procedural requirements and deadlines. Planning Inspectors

already have the power to initiate an award of costs but the practice until now has been to award costs on an application being received from one of the parties. From 1 October the practice will change so that costs may be awarded both on application and at the initiative of an Inspector. The new practice of awarding costs at an Inspector's initiative will apply to appeals submitted on or after 1 October and called-in planning applications where the date of the call-in letter is 1 October or later. All costs decisions will continue to be based on the same test of reasonableness, and costs may be awarded where the unreasonable behaviour of a party causes another party to incur expenses that would not otherwise have been necessary. This measure supports the changes introduced through the appeals review to improve the transparency and timeliness of the appeals process.

DEVELOPMENT MANAGEMENT – Streamlining the Planning Application Process

A package of measures to streamline the planning application process, which were consulted on earlier this year, came into force on 25 June. This:

- Reduces the number of applications that must be accompanied by a Design and Access Statement and simplifies their content.
- Reintroduces an applicant's right to appeal against the non-determination where there is a dispute regarding the amount of information required to validate an application.
- Removes the need for a local planning authority to provide reasons for approval on decision notices.
- The changes form part of our wider programme of reforms to simplify and speed up planning. The package will reduce red tape within the planning application process, leading to financial and administrative savings for both applicants and local authorities.

The statutory instruments bringing these changes into force are available here: [Development Management Procedure Order](#) and [Listed Building Regulations](#).

DEVELOPMENT MANAGEMENT – Compulsory Pre-Application Consultation with the Community

On 6 June we announced our intention to introduce compulsory pre-application consultation with local communities for more significant onshore wind development. Further details can be found in the [Written Ministerial Statement](#).

Regulations introducing this change will follow later in 2013. It is envisaged that this will be by way of an amendment to the Development Management Procedure Order.

ENTERPRISE AND REGULATORY REFORM ACT 2013: HERITAGE PROVISIONS

The Act can be viewed here. The following provision will come into force on 1 October:

- Abolition of conservation area consent and replacement with a requirement to obtain planning permission for the demolition of unlisted buildings in conservation areas

Other changes to the listed building consent regime will be introduced at a later date. These are:

- Powers to allow local planning authorities to enter into a statutory Heritage Partnership Agreement with the owner of a listed building
- Introduction of a system of national and local listed building consent orders
- Introduction of certificates of lawfulness of proposed works to listed buildings

WRITTEN MINISTERIAL STATEMENT ON TRAVELLERS, GREEN BELT AND DIVERSITY AND EQUALITY IN PLANNING

The [Written Ministerial Statement of 1 July 2013](#) revised the appeals recovery criteria issued in 2008 to enable the Secretary of State to consider and determine on a case by case traveller site appeals in the Green Belt so that he can consider the extent to which Planning policy for traveller sites is meeting this government's clear policy intentions. For the avoidance of doubt, this does not mean that all such appeals will be recovered, but that the Secretary of State will likely recover a number of appeals in order to test the relevant policies at national level. This amendment will be applied for six months, after which it will be reviewed.

It also cancelled the former administration's out-of-date guidance on Diversity and Equality in Planning. This document failed to strike the correct balance between the spatial impact of a planning proposal and the background of the applicant in considering the application. Local councils, in all their actions, are bound by duties under the Equalities Act and Human Rights Act. They should decide what action is best based on common sense and prevailing legislation.

CHANGE IN TIME LIMITS FOR SUBMITTING JR APPLICATIONS

On 1 July 2013 changes to the Civil Procedure Rules came into effect that reduce the time period for submission of judicial review applications against planning decisions to 6 weeks.

This change applies to applications for judicial review of decisions made under the Planning Acts as defined in section 336 of the Town and Country Planning Act 1990. These are the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 and the Planning (Consequential Provisions) Act 1990 as amended.

The shorter time period will apply to planning cases where the grounds giving rise to the claim occurred on or after 1 July 2013.

This change will align the time limit for bringing a judicial review with the relevant limit applying to statutory challenges to planning decisions. It is part of a wider

package of Ministry of Justice reforms to judicial review, designed to tackle the delays and reduce the burden of judicial review while upholding access to justice and the rule of law.

You can find out more about the changes [here](#) and [here](#).

REVIEW OF EU COMPETENCES

The government is carrying out a review of the EU's competences, which was launched by the Foreign Secretary in July 2012. It is an audit of what the EU does and how it affects the UK and is intended to inform the debate about the balance of competences between the UK and the EU.

Defra and DECC launched a call for evidence on the environment and climate change competence and the closing date for comments is fast approaching (12 August). The call for evidence document identifies some of the key areas where there is an affect on planning and development arising from EU action on this competence. We will work closely with Defra and DECC on any issues related to planning and development that may emerge as a result of the call. We would encourage you to respond if the balance of competence between UK and Europe is an issue you'd wish to comment on. For further information, and to respond, please go to https://consult.defra.gov.uk/eu/balance_of_competences

Following the call for evidence a report will be produced which will accompany the reports for other areas of competence and inform the debate about the balance between the EU and UK. Calls for evidence and reports on other calls are being published over the coming months. DECC will be publishing a similar call later this year on Energy. If you are interested in other Reports please see <https://www.gov.uk/review-of-the-balance-of-competences>

VARIATION OF SECTION 36 CONSENTS FOR ELECTRICITY GENERATING STATIONS

Section 20 of the Growth and Infrastructure Act amends the Electricity Act 1989 ("the 1989 Act") to allow variations to be made to development consents granted under section 36 of the 1989 Act. The provisions of section 20 are not activated until appropriate regulations come into force to set out the procedure to be followed in seeking consent variations.

The Electricity Generating Stations (Applications for Variation of Consent) Regulations 2013 ("the Regulations") have now been published and will come into force on 31 July 2013, after which date applications to vary consents can be made. The Regulations extend to England and Wales and apply to section 36 consents granted by the Secretary of State and the Marine Management Organisation in respect of generating stations, or proposed generating stations, in England or Wales; waters adjacent to England or Wales up to the limits of the territorial sea; or in a Renewable Energy Zone (as defined in the 1989 Act), except any part of such a zone in relation to which the Scottish Ministers have functions. (In Scotland, the power to vary section 36 consents (which rests with Scottish Ministers) will come into force on 1 December 2013.)

DECC has published [guidance on the Regulations](#).

WASTE PLANNING POLICY

On 29 July, the Government published updated national waste planning policy for consultation. The updated policy largely streamlines existing policy, but brings Green Belt policy on waste into line with that set out in the National Planning Policy Framework. It also takes account of changes to legislation, such as the abolition of Regional Strategies.

The consultation document may be found at:

<https://www.gov.uk/government/consultations/updated-national-waste-planning-policy-planning-for-sustainable-waste-management>, and consultation runs until 23 September.

PLANNING PORTAL

Ministers have been considering options for the future of the Planning Portal. They are committed to securing the future of the Portal and ensuring that the Portal continues to deliver the core services that it currently provides and that benefit citizens, Local Authorities and businesses.

When the Portal was set up in 2002, it was envisaged that it would reach a stage where it would no longer function most effectively in Government. We have built a service that is universally valued, has been well run, and has built a very solid platform, but now needs investment to enable it to fulfil its potential.

Ministers, therefore, have decided to commercialise the Portal and are exploring opportunities to pursue this. The Government would retain a stake in the new business, to enable it to influence the Portal's strategic direction.

We have issued a prospectus, inviting non-binding indicative proposals on the best options for the future of the Portal. We expect to issue the final invitation to tender later in the year.

The prospectus and press notice announcing the initial bidding round can be found at:

<https://www.gov.uk/government/news/a-new-era-for-the-planning-portal-website>
<http://www.planningportal.gov.uk/uploads/planning-portal-prospectus.pdf>

If you have any questions, please contact us at:

planningportalfuture@communities.gsi.gov.uk

RED TAPE CHALLENGE - PLANNING ADMINISTRATION

The Red Tape Challenge, managed by the Cabinet Office, is systematically examining some 6,500 substantive regulations across Whitehall, with the aim of scrapping or simplifying as many of them as possible to reduce the burden of legislation and promote growth, while also ensuring that those that are necessary are retained. The planning administration theme, comprising of approximately

180 regulations, underwent a five week public consultation period from 30 January to 7 March 2013.

These comments have been carefully considered as part of the Department's review of the regulations and in developing our propositions for deregulation. Sector Champions have been closely involved in this process. Our propositions are currently being discussed at with the Cabinet Office and we hope to be able to announce the outcome of the review by the end of the year.

NATIONAL PLANNING CASEWORK UNIT - Consulting the secretary of state on planning applications

The National Planning Casework Unit sometimes receives requests for comments from local planning authorities on planning applications as part of the initial consultation arrangements. A Large amount of supporting documentation is often sent with these. The Secretary of State will not comment at this stage in the planning process as this may be prejudicial should an application be formally referred to him or come before him on appeal. To ensure that resource and time is not wasted, I would be grateful if you could amend your list of consultees accordingly.

NATIONAL PLANNING CASEWORK UNIT: environmental impact assessment regulations: regulation 16

When sending an environmental statement to the National Planning Casework Unit under this Regulation, it would be helpful if, where possible, this is sent on a disc. This will help save resources and ensure that space is used more efficiently.

NATIONAL PLANNING CASEWORK UNIT: contact details

As you are aware, the National Planning Casework Unit is now responsible for the planning casework previously dealt with by the Government Office Network, which closed on 31 March 2011. We are still receiving some correspondence from local planning authorities addressed to the Government Offices, which creates delay. To ensure that your records are up to date the contact details for NPCU is given below:-

National Planning Casework Unit
5 St Philips Place
Colmore Row
Birmingham
B3 2PW

Telephone: 0303 444 8050

Email: npcu@communities.gsi.gov.uk