



Factsheet: planning conditions (clause 12)

What are planning conditions?

Where an application is made to a local planning authority for planning permission, the local planning authority may grant planning permission subject to conditions as it thinks fit. When used properly, conditions can enhance the quality and mitigate the adverse effects of the proposed new development.

What are pre-commencement conditions?

Pre-commencement conditions are ones which must be complied with before any development work is allowed to begin. The inappropriate use of pre-commencement conditions has been cited by house-builders as one of the main challenges in achieving the quick completion of new development – due to the costs and delays which result from the need to respond to such conditions.

What are the reforms to planning conditions in the Bill?

The Bill measures will seek to ensure that pre-commencement conditions are only used by local planning authorities where they are absolutely necessary, by requiring local authorities to seek the agreement of the applicant in writing, in advance of imposing pre-commencement conditions on a grant of planning permission. Further, the measures will allow for circumstances to be prescribed where this requirement to seek the applicant's written agreement would not apply. The provisions also seek to prevent the use of other types of conditions that do not meet the long-established policy tests for planning conditions set out in the National Planning Policy Framework¹.

What is the policy hoping to achieve?

The Government wants to see an increase in the supply of new housing. To help meet this objective, the Bill measures aim to speed up the planning process by eliminating unreasonable costs and delays to new development caused by conditions which do not accord with the national policy tests. In some cases, pre-commencement conditions are imposed which are capable of being dealt with later in the development process, for example where they relate to issues such as landscaping and detailed architectural matters.

The proposals will not restrict the ability of local planning authorities to seek to impose conditions that are necessary to achieve sustainable development, in line with the National Planning Policy Framework. The proposals will therefore not change the way conditions can be used to maintain existing protections for important matters such as heritage, the natural environment, and measures to mitigate the risk of flooding.

Where are we now?

In the Budget 2016 the Government announced its intention to legislate to ensure that pre-commencement conditions can only be imposed with the agreement of the applicant.

Why is legislation needed?

The National Planning Policy Framework asks local authorities to ensure that the planning conditions they seek to impose are reasonable, and DCLG planning guidance highlights that it is best practice for a local planning authority to agree

¹ <http://planningguidance.communities.gov.uk/blog/policy/>



proposed conditions with an applicant before a decision is taken. However, the Government believes that in some cases local planning authorities are imposing conditions which do not meet the national policy tests, resulting in delays to the delivery of new development. The measures we propose in the Bill will require that current best practice is followed by all local authorities, so that the requirement for planning conditions to be imposed in a way which meets the national policy tests is strengthened, and applicants are consulted before pre-commencement conditions are imposed on a grant of planning permission.

How do we see this working in practice?

We propose that it would be the responsibility of the local planning authority to seek the written agreement of the applicant to any pre-commencement conditions. The authority would be able to choose the most appropriate time to seek agreement, but could not grant planning permission subject to pre-commencement conditions unless written agreement had been given by the applicant to the terms of the condition.

In the unlikely event that the applicant does not agree to the imposition of a pre-commencement condition, the local planning authority would have the option to either change the condition in question, allow the developer to comply with it after the development is underway or, remove the condition altogether. The authority would also retain the right to refuse the planning application, and the applicant would have the option to appeal the condition as is currently the case.

How can I find out more?

Further information on the development and implementation of the measures in the Bill is contained in the government response to the consultation on improving the use of planning conditions, which has now been published².

Key questions and answers:

Won't the measures on pre-commencement conditions remove the ability to impose conditions relating to archaeology, and other important planning matters?

- No, the measures only seek to ensure that conditions meet the existing tests in national policy, and will not remove the ability for local authorities to seek to impose conditions that are necessary to achieve sustainable development.

Aren't the powers to prohibit other types of conditions very broad?

- The powers only allow prohibition of conditions that do not meet the national policy tests. A number of these conditions are well-established in DCLG planning guidance. In addition, before making any regulations detailing conditions or circumstances when particular conditions should not be imposed, the Government would be required to carry out a public consultation.

What is the Government's policy on the use of conditions in planning permissions?

- Paragraph 206 of the National Planning Policy Framework states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

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² <https://www.gov.uk/government/consultations/improving-the-use-of-planning-conditions>