

LLG Annual Conference 2019

New Planning Law legislation

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Overview

- This talk will consider:
 - Changes to planning legislation in the past 12 months
 - Changes to planning legislation on the horizon
- This talk will not include the recent CIL changes

Changes to legislation in the past 12 months

- Other than the changes to the CIL Regulations, there has not been a great deal of change in UK planning laws in the past year.
- The changes discussed in this presentation are made through secondary legislation and largely technical, but it is important to be aware of them.
- However, more radical changes are clearly on the table for next year: regardless of the results of the General Election.

Neighbourhood Planning Act 2017

- Section 8(2) of the 2017 Act came into force on 4th July 2019 as a result of the Neighbourhood Planning Act 2017 (Commencement No. 6) Regulations 2019/1081.
- The provision states that “The Secretary of State must issue guidance for local planning authorities on how their local development documents (taken as a whole) should address housing needs that result from old age or disability”.
- This means that more guidance is on the horizon with specific reference to housing needs arising from old age and disability.

GDPO and Advertising Regulations changes

- The Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019/907 brought in amendments to
 1. the Town and Country Planning (General Permitted Development) (England) Order 2015 and
 2. the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

GDPO changes

Key changes:

- Regulation 4 makes permanent the existing temporary right to enlarge a dwellinghouse by up to 8 metres in the case of a detached dwellinghouse or by 6 metres in the case of any other dwellinghouse, as permitted by Class A of Part 1 of Schedule 2 to the Order. It removes the time limiting date of 30th May 2019, as well as conditions which required development to be completed by that date.
- This may only be the beginning: more radical government proposals for permitted development are discussed later in this presentation.
- Regulation 11 extends Class D of Part 4 of Schedule 2 (shops, financial, cafes, takeaway etc to temporary flexible use) to the Order, to include certain Class D1 (non-residential institutions) uses of the Use Classes Order as a permitted temporary flexible use.

GDPO changes

- These named Class D1 (non-residential institutions) uses are:
 - Class D1(a) the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner,
 - Class D1(d) the display of works of art (otherwise than for sale or hire),
 - Class D1(e) museum,
 - Class D1(f) public library or public reading room, and
 - Class D1(g) public hall or exhibition hall.
- Regulation 11 extends the period of time that a building can be in a temporary flexible use from 2 years to 3 years.

Advertising Regulations changes

- Regulation 17 amends the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (S.I. 2007/783) by removing deemed consent to display an advertisement on the glazed surface of a telephone kiosk.



Infrastructure planning (water resources)

- Article 2 of the Infrastructure Planning (Water Resources) (England) Order 2019/12 amends the Planning Act 2008 in respect of nationally significant infrastructure projects ("NSIP") in the field of water to introduce a new category of NSIP and amend the thresholds of the existing categories of NSIP.
- Paragraphs (2) and (6) introduce a new category of NSIP in respect of the construction or alteration of desalination plants. A desalination plant is defined in paragraph (7) as a facility for the extraction of mineral components from saline water.
- Paragraph (3) amends section 27 of the 2008 Act. It increases the threshold for when the construction or alteration of a dam or reservoir will be an NSIP from holding back 10 million cubic metres to holding back 30 million cubic metres.

Habitats and species

- The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018/1307 (28 December) were made under the European Communities Act 1972 and amend various pieces of secondary legislation.
- Appropriate assessment requirements in the Habitats Regulations now apply to permission in principle (Habitats Regulations, r 70).
- Neighbourhood development plans must comply with the provisions applicable to land use plans in Chapter 8 of Part 6 of the Habitats Regulations.

Future changes to planning law

- Subject to the general election outcome, there are several plans put forward by both the government and the opposition that could involve substantial changes to primary and secondary legislation.



The government's plans for future reform

- In 2018 the government consulted on “Planning reform: supporting the high street and increasing the delivery of new homes”
- <https://www.gov.uk/government/consultations/planning-reform-supporting-the-high-street-and-increasing-the-delivery-of-new-homes>
- In May 2019 the government published its response:
- <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2019-03-13/HCWS1408/>

The government's plans for future reform

- The key proposals involve:
 - permitted development rights
 - Design quality
 - Faster decision-making within the planning system
 - Housing diversification
 - Further reforms to the compulsory purchase regime?
- Many of these changes would be carried out through the revised NPPF and other guidance. However, the government has accepted that some changes will require amendment to primary and secondary legislation.

Permitted development rights

- Perhaps the most eye-catching government planning proposal in recent months concerns permitted development rights.
- The government has stated its commitment to allowing the addition of multi-storey extensions to detached homes without requiring planning permission.



Permitted development rights

- Certain home improvements fall within different classes of the permitted development rules. Under Class A, homeowners require prior notification for extensions. Under Class B, homeowners can build additions to the roof. Class C is for other alterations to the roof, Class D is for porches, and Class E is for outbuildings.
- As of May 2019, the right to build larger rear single-storey extensions under Class A has already been made permanent.
- Query the extent to which the proposal to allow the addition of multiple stories without planning permission is compatible with the government's increasing focus on building design (see next slide).

Legislating for ‘beauty’?

- Building design quality appears to be a key priority of the current Secretary of State at MHCLG.
- On 1 October 2019 the government published the “National Design Guide”:
- <https://www.gov.uk/government/publications/national-design-guide>
- The government has also set up a body it refers to as the “Building Better, Building Beautiful Commission”, the purpose of which is “to tackle the challenge of poor quality design and build of homes and places”.

Legislating for ‘beauty’?

- The BBBB Commission published an interim report in July 2019 and aims to publish a final report by the end of 2019
- Interim proposals include Policy Proposition 15: “the right development in the right place” and Policy Proposition 30: “don’t subsidise ugliness”
- Unclear what many of the BBBB Commission’s proposals will mean in practice, especially given that beauty is inherently subjective: but may involve e.g.
 - Stricter enforcement of departures from approved designs e.g. Policy Proposition 23: “Where good master plans or designs are approved it is *those* schemes that should be built – not a diluted version down the line. There should be a greater probability of enforcement and stricter sanctions.”
 - Changes to rules regarding procurement and disposal of government land to factor in “beauty”- see Policy Proposition 30.

The opposition's planning proposals

- It is also worth considering Labour's planning proposals in its 2019 manifesto.
- New towns and cities: *“We will bring together transport and land-use planning to create towns and cities in which walking and cycling are the best choice: safe, accessible, healthy, efficient, economical and pollution free.”*
- Increases in planning fees? (but a potential row-back from the previous manifesto which suggested objectors should have a right of appeal): *“Labour will put the voices of local people at the heart of planning. We will rebalance power in the planning system by giving local government greater freedom to set planning fees and by requiring the climate and environmental emergency to be factored into all planning decisions.”*

The opposition's planning proposals

- Changing the definition of affordable housing and ending permitted office block conversions: *“We will scrap the Conservatives’ bogus definition of ‘affordable’, set as high as 80% of market rents, and replace it with a definition linked to local incomes. These council and housing association homes will be more affordable than market housing and built to higher standards. We will end the conversion of office blocks to homes that sidestep planning permission through ‘permitted development’.”*
- However the devil is in the detail, and we have not yet seen detailed proposals for Labour’s planning reforms.

Thank you

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