

Report to Development Control Committee

Agenda
Item:
A.2

Meeting Date: 17th July 2020
Portfolio: Economy, Enterprise and Housing
Key Decision: No
Within Policy and Budget Framework: No
Public / Private: Public

Title: UPDATE ON CHANGES TO PLANNING LEGISLATION (TO DEAL WITH RELEASE FROM COVID-19 LOCKDOWN)
Report of: Corporate Director of Economic Development
Report Number: ED.27/20

Purpose / Summary:

This report presents a summary of the changes coming into force to support local businesses as they adapt to ease the release of lockdown post Covid-19.

Recommendations:

That Members note the contents of this report.

Tracking

Executive:	N/A
Overview and Scrutiny:	N/A
Council:	N/A

1. CONSTRUCTION HOURS

- 1.1 At the 5th June 2020 meeting of this committee members received an enforcement report which included an overview of the changes to the planning system being implemented by the Government as the country comes out of the lockdown. The changes have been incremental as different sectors return however the government has now published more details.
- 1.2 This first of the intended changes was to construction hours on building sites to enable social distancing measures to be introduced. This would require longer working hours to ensure that employees could operate at a safe distance. A Written Ministerial Statement (WMS) was made by the Secretary of State in a construction update on the 13th May 2020. A reminder of that WMS is set out below:
- 1.3 It stated that *“with immediate effect, local planning authorities should take a swift and positive approach to requests from developers and site operators for greater flexibility around construction site working hours. This is to ensure that, where appropriate, planning conditions are not a barrier to allowing developers the flexibility necessary to facilitate the safe operation of construction sites”*
- 1.4 It goes on to state: *“Where only a short term or modest increase to working hours is required, local planning authorities should, having regard to the reason for the condition and to their legal obligations, not seek to undertake enforcement action.”*
- 1.5 In clarifying that position *“Requests to extend working hours should be proportionate and should not involve working on Sundays or bank holidays. However, local authorities should not refuse requests to extend working hours until 9pm, Monday to Saturday without very compelling reasons for rejection. In some cases, such as in areas without residential properties, extending working hours beyond this, including allowing 24-hour working where appropriate, may be justified. In all cases, sympathetic site management should be demonstrated to mitigate local impacts and local authorities should show best endeavours to facilitate such requests.”*
- 1.6 The Government has now provided more details and on the 25th June 2020 published draft guidance. This has currently been incorporated into the Business and Planning Bill which is currently working its way through Parliamentary procedures towards becoming an Act. It has passed through the House of Commons and at the time of writing this report and this committee meeting it will be progressing through the House of Lords.

- 1.7 The key messages in relation to construction hours include the method for applying through a formal application however no consultation or publicity for the application is required. The application should be determined within 14 calendar days. There is also no fee for this type of application.
- 1.8 If an application is approved, this will temporarily amend planning restrictions on construction working hours until 1 April 2021, unless another earlier date has been requested by the applicant or decided upon by the local planning authority, with the agreement of the applicant.
- 1.9 If the local planning authority does not determine the application within 14 days (excluding public holidays), the revised working hours are deemed to have been consented to and construction can take place in accordance with these new hours. However, the authority may wish to propose minor changes to the proposed hours. Any such changes will need to have been agreed in writing by the applicant.
- 1.10 Applicants will need to provide details of:
- the planning permission to which the application relates
 - the existing agreed construction working hours
 - details to identify the condition or approved document such as construction management plan which details the working hours
 - the proposed revised construction working hours
 - the date the revised construction working hours should take effect
 - the date on which the application is sent
 - the date on which the revised construction working hours should cease to have effect (no later than 1st April 2021)
- 1.11 To aid swift decision making, applicants should also provide:
- a short justification on why extended hours are necessary to enable safe working practices on site
 - details of their mitigation plan as set out below.
- 1.12 Note that applications can only be made online.
- 1.13 The onus is not all on the local planning authority and applicants are encouraged to provide details of mitigation plans setting out how they propose to liaise with neighbours and manage and mitigate any effects to local residents or businesses from working additional hours

- 1.14 There are limited circumstances under which an application may be refused. Careful consideration will need to be given to applications which are:
- made in relation to sites in proximity to businesses or community uses which are particularly sensitive to noise, dust and vibration – and particularly so where such uses are seeking to recover from the impacts of coronavirus and extended working hours could have a negative impact. Examples include hospitals, hospices, care homes, places of worship, broadcasting or recording studios, theatres and cinemas
 - made in relation to sites in close proximity to residential areas where the request for changing hours is likely to have a significant impact on health, taking into account the requirements of section 79 of Environmental Protection Act 1990 and the duty on local authorities to protect persons in the locality from the effects of noise under section 60(4)(d) Control of Pollution Act 1974
 - made in relation to EIA development or development which was subject to EIA screening, and where limitations were put in place to restrict the hours of construction either to reduce adverse impacts to a level which was acceptable, or where these formed the parameters of development against which harm was previously assessed (see question below)
 - made in relation to development which was subject to a Habitats Regulations Assessment and either screened out as not likely to have a significant effect on a habitats site, or subject to appropriate assessment and mitigation measures were put in in order to ensure that the development would not have an adverse effect on the integrity of a habitats site. (see question below)
 - for development adjacent to Sites of Special Scientific Interest and where mitigation measures were put in place to restrict the hours of construction.
- 1.15 Applicants may appeal refusal of permission to extend the hours but not if alternative hours are agreed.

2. PAVEMENT CAFES AND PUBLIC HOUSE OPERATIONS

- 2.1 The Business and Planning Bill also contains measures for the operations of pavement cafes and public houses which are covered by licensing legislation as well as planning legislation.
- 2.2 In order to allow social distancing measures to be put in place these premises require additional seating space and are therefore turning to space immediately outside their premises. For many public houses this includes the use of beer gardens and parking areas and in the typical British weather there has been an increase in the use of Marquees. The legislation allows for extended periods for Marquees to be erected without the need for planning permission.

- 2.3 Where this includes seating or counters on the pavement this requires a licence however the Bill focuses on the need for a speedy licensing process and where a licence is granted under these temporary measures, planning permission will not be required, and the business is granted deemed consent.

3. FURTHER REFORMS

- 3.1 On the 30th June the Prime Minister announced further reforms to the planning system to allow buildings and land to change use without planning permission.
- 3.2 Under the new rules, existing commercial properties, including newly vacant shops, can be converted into residential housing more easily, in a move to kick start the construction industry and speed up rebuilding. The changes include:
- More types of commercial premises having total flexibility to be repurposed through reform of the Use Classes Order. A building used for retail, for instance, would be able to be permanently used as a café or office without requiring a planning application and local authority approval including newly vacant shops. Pubs, libraries, village shops and other types of uses essential to the lifeblood of communities will not be covered by these flexibilities.
 - A wider range of commercial buildings will be allowed to change to residential use without the need for a planning application.
 - Builders will no longer need a normal planning application to demolish and rebuild vacant and redundant residential and commercial buildings if they are rebuilt as homes.
 - Property owners will be able to build additional space above their properties via a fast track approval process, subject to neighbour consultation. This process has been introduced for larger home extensions and is known as a Prior Approval system which requires a lighter touch than a full planning application.
- 3.3 It is the Government's intention that these changes, which are planned to come into effect by September through changes to the law, will both support the high street revival by allowing empty commercial properties to be quickly repurposed and reduce the pressure to build on green field land by making brownfield development easier. The Government intends that developers will still need to adhere to high standards and regulations, just without what it considers to be the unnecessary red tape.

4. Future Changes to the Planning System

- 4.1 On the 30th June 2020 the Prime Minister made further announcements including what he considers to be the most radical reforms to our planning system since the

Second World War, making it easier to build better homes where people want to live.

- 4.2 As well as covering the measures outlined in Section 3 of this report, the Prime Minister also announced that work will begin to look at how land owned by the government and public sector can be managed more effectively and released so it can be put to better use. This would include home building, improving the environment, contributing to net zero goals and injecting growth opportunities into communities across the country.
- 4.3 The Government will also launch a planning Policy Paper in July setting out its plan for comprehensive reform of England's seven-decade old planning system, to introduce a new approach that works better for our modern economy and society. At the time of writing this report this paper is awaited and whilst most of the reforms may be for the Policy system of Local Plans it will have direct consequences for the Development Management and planning application/permission process. Members will be updated when more information is available.

5. RECOMMENDATION

That Members note the contents of this report.

6. CONTRIBUTION TO THE CARLISLE PLAN PRIORITIES – not applicable

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Appendices None
attached to report:

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:

- None

CORPORATE IMPLICATIONS:

LEGAL – included within the report

PROPERTY SERVICES – n/a

FINANCE – n/a

EQUALITY – n/a

INFORMATION GOVERNANCE – n/a