

Report to Development Control Committee

Agenda
Item:
A.2

Meeting Date: 11 April 2014
Portfolio: Economy and Enterprise
Key Decision: Not Applicable:
Within Policy and
Budget Framework
Public / Private Public

Title: UPDATE ON HOUSING STANDARDS REVIEW AND
PERMITTED DEVELOPMENT RIGHTS
Report of: Director of Economic Development
Report Number: ED.16/14

Purpose / Summary:

This report provides an update for Members on recent changes to national planning legislation affecting housing standards, permitted development rights and update on the National Planning Practice Guidance.

Recommendations:

That the report be noted.

Tracking

Executive:	
Overview and Scrutiny:	
Council:	

1. BACKGROUND

- 1.1 During 2013 the Department for Communities and Local Government consulted on proposed changes to a number of remaining planning documents following the significant changes brought about by the introduction of the National Planning Policy Framework. The Government considered that although much of the previous guidance had been removed there were still areas which could be changed to streamline the planning system even further.

2. UPDATE TO CHANGES INTRODUCED

2.1 Housing Standards Review

- 2.2 In 2010 the Government announced an industry led examination of housing standards and to find a way to simplify them. The Local Housing Delivery Group reported in June 2012. The group decided the best way to consider standards was by theme including energy, accessibility, security and water. The Group concluded that there was scope for rationalisation and called for as much material as possible to be put into national Building Regulations.

- 2.3 A consultation was undertaken between August and October 2013.

- 2.4 In response to the Local Housing Delivery Group Report and the Government's consultation the Government proposes the following changes through the Building Regulations system:

- **Access**

Minimum access standards in Part M (Access to and use of buildings) will be retained. In addition, an optional level of accessibility will be introduced in Part M which will set out criteria for age friendly, accessible and adaptable housing. The Government will also set out within Part M an optional standard which will set out criteria setting out the specific needs of wheelchair adaptable and accessible housing.

These optional levels would not be universally mandatory, but local authorities will be able to adopt them to meet local needs, according to local circumstances or individual needs, and subject to viability testing.

- **Security**

The Government recognises the value of a single minimum security standard for new homes, based on industry's best practice. The Government is considering the evidence on whether such a standard should be applied to all new homes, as a

Building Regulation applied nationally or whether it would be more proportionate if applied on a local basis.

- **Water**

The Government propose to introduce a new, tighter level of water efficiency into the Building Regulations, to be set at 110 litres/person/day (lpd). This would be an optional higher level in addition to the current level of 125 lpd which could only be applied in areas with specific local needs (such as water stress). This would be chosen by the local authority. Government is considering the best way to define areas of water stress to ensure this works in practice.

- **Energy**

The Government proposes a “Building Regulations only” approach, with no optional additional local standards in excess of the provisions set out in Part L of the Regulations.

In Budget 2013 the Government reaffirmed its commitment to implement the zero carbon homes policy for new homes from 2016. This will be achieved through a strengthening of the energy performance requirements in Part L of the Building Regulations (incorporating carbon compliance, energy efficient fabric and services), and the delivery of allowable solutions.

- **Space**

The Government believes that it is right that local communities and neighbourhoods have the ability to shape the nature of new development in their local areas.

However, a proliferation of localised and varying space standards creates a potentially significant barrier to delivery of housing. The Government will therefore develop a new national standard – not a Building Regulation - which will offer a consistent set of requirements with regard to the internal area of new homes. This will have two different sets of specifications, based on a consolidation of existing space standards used by authorities across the country. Application of the standard will be optional for local authorities to use and they will need to justify its application according to evidenced needs and subject to local plan viability testing. This will help to balance the needs of local communities whilst ensuring that the home building industry can deliver at volume in a cost effective manner.

- **Other Standards**

Government considered a range of other issues in the Housing Standards Review consultation. The Government is not taking forward any work on these matters during this Parliament.

2.5 Permitted Development Right Changes

- 2.6 The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014 came into force on the 6th

April 2014. The most significant change introduced is for the permitted change of use from agricultural buildings to residential use subject to a prior approval process.

2.7 The following changes have been made:

- Article 3 makes a number of amendments in relation to permitted development rights for dwellinghouses in Part 1 of Schedule 2 to the General Permitted Development Order. As a result, none of the Part 1 rights will apply where buildings have become dwellinghouses under the new change of use permitted development rights at Class IA and MB of Part 3 of this Order. There are some minor amendments and clarifications to the prior approval
- Article 4 allows premises which have become registered nurseries under the new and expanded permitted development rights at Class K and MA of Part 3 of Schedule 2 to the General Permitted Development Order (see article 5 of this Order) to build higher fences or walls next to highways.
- Article 5 introduces a number of new permitted development rights for change of use, some of which include permission for limited operational development:
 - New Class CA allows a building used as a shop to be used as a bank, a building society, a credit union or a friendly society.
 - New Class IA allows buildings used as shops or for the provision of financial or professional services to change to residential use.
 - Class K is expanded to allow buildings used for a variety of uses to become nurseries.
 - New Class MA allows agricultural buildings to become schools or nurseries.
 - New Class MB allows agricultural buildings to change to residential use.
- Conditions, limitations and restrictions are applied to each of the new rights, and in some cases the prior approval of the local planning authority is required in relation to certain matters in particular with Class MB prior approval covers transport and highways impact, noise impact, contamination risk, flooding risk and whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change use.
- Article 6 prevents developers using existing rights to build or extend agricultural buildings within ten years of having changed the use of an agricultural building under new Class MA or MB of Part 3 of Schedule 2
- Article 7 allows premises which have become registered nurseries under the expanded Class K to take advantage of operational development rights for schools under Part 32 of Schedule 2.
- Article 8 clarifies that local planning authorities are not required to determine applications for prior approval under Parts 1 and 3 of Schedule 2 to the General Permitted Development Order within 8 weeks. There is no need to require the local planning authority to determine such applications because failure to determine them

within the period specified for prior approval means that development which complies with any other conditions, limitations and restrictions attached to the development in question is authorised by the General Permitted Development Order.

2.9 National Planning Practice Guidance (NPPG)

2.10 Following the Taylor Review of the Government intended to reduce the additional 7,000 pages of planning guidance available to a single on-line resource for planning practice guidance. In August 2013 the resource was launched as a working draft and as of the 6th March the Government finalised the guidance and as a result has cancelled some previous guidance. Any changes to guidance will be incorporated into this on-line resource.

2.11 The specific updates are:

- issuing robust guidance on flood risk, making it crystal clear that councils need to consider the strict tests set out in national policy, and where these are not met, new development on flood risk sites should not be allowed
- making clear that local plans can pass the test of soundness where authorities have not been able to identify land for growth in years 11 to 15 of their local plan, which often can be the most challenging part for a local authority
- explaining how student housing, housing for older people and the re-use of empty homes can be included when assessing housing need
- ensuring that infrastructure is provided to support new development, and noting how infrastructure constraints should be considered when assessing suitability of sites
- stressing the importance of bringing brownfield land into use and made clear that authorities do not have to allocate sites on the basis of providing the maximum possible return for landowners and developers
- noting that councils should also be able to consider the delivery record (or lack of) of developers or landowners, including a history of unimplemented permissions; this will also serve to encourage developers to deliver on their planning permissions
- incorporating the guidance on renewable energy (including heritage and amenity) published during last summer and making it clearer in relation to solar farms, that visual impact is a particular factor for consideration
- allowing past over-supply of housing to be taken into account when assessing housing needs

- on the 5 year supply of sites, confirming that assessments are not automatically outdated by new household projections
- clarifying when councils can consider refusing permission on the grounds of prematurity in relation to draft plans
- encouraging joint working between local authorities, but clarifying that the duty to co-operate is not a duty to accept; we have considered and rejected the proposals of HM opposition to allow councils to undermine green Belt protection and dump development on their neighbours' doorstep

For Members information the Planning Practice Guidance covers the following topics:

• Advertisements	• Air quality
• Appeals	• Before submitting an application
• Climate change	• Conserving and enhancing the historic environment
• Consultation and pre-decision matters	• Crown Development
• Design	• Determining a planning application
• Duty to cooperate	• Ensuring effective enforcement
• Ensuring the vitality of town centres	• Environmental Impact Assessment
• Flexible options for planning permissions	• Flood Risk and Coastal Change
• Hazardous Substances	• Health and wellbeing
• Housing and economic development needs assessments	• Housing and economic land availability assessment
• Land affected by contamination	• Land Stability
• Lawful development certificates	• Light pollution
• Local Plans	• Making an application
• Minerals	• Natural Environment
• Neighbourhood Planning	• Noise
• Open space, sports and recreation facilities, public rights of way and local	• Planning obligations

green space	
• Renewable and low carbon energy	• Rural Housing
• Strategic environmental assessment and sustainability appraisal	• Travel plans, transport assessments and statements in decision-taking
• Tree Preservation Orders and trees in conservation areas	• Use of Planning Conditions
• Viability	• Water supply, wastewater and water quality
• When is permission required?	

3. CONCLUSION AND REASONS FOR RECOMMENDATIONS

3.1 That Members note the changes which have been made to national planning legislation

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**Appendices
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/RISKS:

Chief Executive's – n/a

Deputy Chief Executive – n/a

Economic Development – as the report

Governance – n/a

Local Environment – n/a

Resources – n/a