

PLANNING UPDATE

Planning reforms in the Autumn Statement

In December 2013, the Government announced in its Autumn Statement the following planning reforms for consultation:

- Introducing a statutory requirement for a local authority to put a Local Plan in place
- Treating planning conditions as approved where a local authority has failed to discharge a condition on time and further regulating the imposition of pre-commencement conditions
- Reducing the number of planning applications for which statutory consultation is required
- Introducing a new minimum 10 residential unit threshold after which section 106 affordable housing contributions can be required
- Increasing the threshold for a local authority being designated as 'poorly performing' from 30% to 40% of decisions being made on time (triggering a right to apply directly to the Secretary of State for planning permission)



- Measures to ensure that a share of the benefits of development pass directly to individual households (we await further details as to what this means in practice)

Permitted development rights update

Office to residential - judicial review

In May 2013, the Government introduced new permitted development rights allowing a change of use from offices to residential without the requirement to obtain planning permission.

Developers have since taken advantage of these new rights given that residential values in many areas are considerably higher.

There has been opposition from several local authorities, particularly those authorities not granted exemptions by the Secretary of State. Exemptions were only granted in 'exceptional circumstances' where there would be:

- Adverse economic consequences; or
- Loss of nationally significant areas of economic activity

Some authorities have received a large number of notifications for prior approval (required before exercising the new rights) and are concerned that the new rights will lead to the loss of valuable employment space and business rates. Further, there is no requirement for affordable housing.

In December 2013, a judicial review claim was brought before the High Court by the London Boroughs of Islington, Richmond Upon Thames and Camden against the Secretary of State's decision not to grant their proposed exemptions.

The authorities claimed that:

- The Government's refusal to grant these exemptions was both unfair and unlawful
- They were provided with insufficient information by the Secretary of State on the exemption process and the process was flawed
- The reasons provided by the Secretary of State for refusing the exemptions were inadequate

The High Court subsequently dismissed this claim for judicial review, meaning that the new rights and the limited exemptions granted by the Secretary of State remain intact.

We consider this result unsurprising given that:

- In practice, several developments are already underway pursuant to these new rights; and
- Local authorities already have the power to make Article 4 directions withdrawing permitted development rights (albeit these directions can be modified by the Secretary of State and are subject to a compensation period).



Other new permitted development rights

In August 2013, the Government consulted on further new permitted development rights allowing a change of use from retail to residential. These rights are expected to be introduced in April 2014.

The Government has also announced in its Autumn Statement that it will consult on the following permitted development rights reforms:

- New rights allowing changes of use from retail to restaurant or assembly and leisure uses
- Changes to 'liberalise' planning restrictions on mezzanine floors in retail premises, where this will

support town centres (we await further details of how this will work in practice).

We consider that these reforms will further free up the planning system to focus on major development and also allow developers and landlords greater flexibility in the use of their premises without the delay and costs associated with having to obtain planning permission for a change of use.

New national planning practice guidance website

In August 2013, the Department for Communities and Local Government (DCLG) launched a new website containing national planning practice guidance for testing and comments from the public. This was proposed as a result of the external review of planning practice guidance chaired by Lord Taylor of Goss Moor carried out in 2012.

The aim of this website is to:

- Streamline the existing national planning practice guidance and present it in a simple way which is easier to understand
- Provide national guidance which complements the National Planning Policy Framework

Local planning authorities will be expected to have regard to the guidance on this website when making decisions on planning applications and also in the preparation of local and neighbourhood plans.

We have reviewed the website in its current form and we consider the site to be user-friendly for members of the public, however, from a professional's perspective the website could be better formatted and organised to make it more meaningful when quoted by authorities and developers in planning reports and at planning appeals.

The testing period for the website has closed and the Government is currently considering the comments it has received before launching the fully active website later this year.

For more information, please contact Chad Sutton, Planning Partner, at Maples Teesdale LLP on 020 3465 4340 or csutton@maplesteesdale.co.uk