



**Title: Summary of recent and proposed changes to the planning system**

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This note provides a brief overview of recent changes and proposed changes to the planning system along with some potential implications for Norwich.

### **Changes to Permitted Development**

The government have brought in a raft of changes to planning legislation and are due to bring in further changes in the coming months. Some have been introduced as 'emergency' measures due to coronavirus and without any consultation. A summary of the main changes are outlined below.

Five different statutory instruments amending permitted development rights have been introduced since lockdown, some have already come into effect others come into effect on 31 August. These changes provide for (this is a summary only and the original legislation should be referred too for detailed wording and details of all exemptions and requirements):

- Restaurants, cafes and drinking establishments can operate as hot food takeaways for upto a year starting 24 March 2020.
- PD rights for local authorities to undertake any development for purposes of preventing, reducing, controlling, mitigating or taking other action in connection with an emergency. These are wide ranging but temporary with any use needing to cease by the end of the year and any building erected removed up to 12 months later.
- A temporary widening of the ability to use land temporarily for a use up to 28 days between 1 July – 31 December 2020.
- Introduction of an ability to consider the provision of adequate natural light in all habitable rooms when considering prior approval applications for conversion to dwellings (i.e. such as office to residential). Floor plans and elevations are also now required.
- A range of new permitted development rights to allow for the construction of new dwellings above existing properties. This provides for:
  - Up to two additional storeys of flats (including associated works) above the following existing types of properties:
    - Purpose-built, detached blocks of flats;
    - Detached commercial or mixed use buildings;
    - Terrace properties in residential, commercial or mixed use;
    - Detached dwellings.
  - A wide range of restrictions apply including:
    - Does not apply in Conservation Areas and to Listed Buildings;
    - Does not apply to buildings constructed prior to 01 July 1948 or after 05 March 2018;
    - Limits on storey and overall height.
  - This is subject to a prior approval process which can consider the following:
    - highways;
    - air traffic;
    - contamination;
    - flooding;

- neighbour amenity, light to new dwellings;
  - design and external appearance;
  - heritage and archaeology;
  - landscaping;
  - where the building is commercial additional considerations of impact on business and noise from commercial premises.
- There is a 3 year time limit and a construction management plan must be submitted.
- Unlike other prior approval processes automatic approval is not given if a decision is not made within a time limit and unusually no time limit is given for determination however there will be a right of appeal.
- Upward extensions to dwellings allowing up to two additional storey's above an existing house.
  - Does not apply to a listed building or in a conservation area;
  - Applies to properties constructed between 1948 and 2018;
  - Includes height restrictions;
  - Is subject to a prior approval process allowing consideration of neighbour amenity, external appearance and air traffic.
- Demolition of buildings and construction of new houses.
  - Allows for the demolition of a purpose built detached block of flats, a detached building in B1 use and construction of a detached block of flats or a detached house along with associated works.
  - Some key restrictions are that this does not apply to:
    - a conservation area or listed building;
    - to buildings constructed prior to 1989;
    - if the footprint exceeds 1,000sqm;
    - if the building has not been vacant for at least 6 months;
    - the footprint of the demolished building cannot exceed the footprint of the old building;
    - upto two additional storey's can be added.
  - A prior approval process is required which considers the some of the matters as upward extensions (but not all) with the addition of design and landscaping.

## Implications

- Inability to deliver any affordable housing via prior approval process.
- Potential for poor quality housing – although natural light can be considered, there is no ability to consider matter such as internal space, external amenity space, refuse storage and cycle storage.
- Trees and landscape are not considerations for some prior approval application types. Neither is ecology however other legislation may avoid the most significant harm.
- Lack of direct reference to matters which we have a legislative duty to consider such as ecology, impact on listed buildings, conservation areas and equality leads to a fragmented system and likely confusion for the development industry.
- Potential increase in pressure on public services, particularly recreational facilities and open space.
- Changes to fee regulations have not yet been made so currently we can't charge a fee for these applications. Draft fee regulations propose a fee of £334 per dwelling (below the £462 per dwelling for a full application).
- The draft fee regulations do not provide for any fee for upward residential extension prior approval applications (note HCLG committee have recommended local fee setting last month although this has been muted since 2010).
- Resources to enforce when temporary arrangements cease.
- Likely to increase resource burden on local planning authorities rather than decrease particularly in urban areas.
- Has the potential to lead to homes in inappropriate areas.

## **Changes to the Use Classes Order**

The use classes order is to be overhauled as of 01 September with some transitional arrangements. Ultimately existing use classes A1-5, B1 and D1-2 are being removed and replaced with new class E (Commercial, Business and Service) and F1 (Local Community and Service) and F2 (Local Community).

A summary of these is contained in the table on the following page.

### **Implications**

- Changes of uses between the same use class do not require planning consent, this allows for significant flexibility between use classes now in class E in particular.
- It reduces our control and will have particular implications for some policies which seek to protect retail and office space and locate retail and leisure in sustainable locations.
- Changes to permitted development rights have not yet been drafted to reflect these changes.
- Transitional arrangements are set out meaning that permitted development rights will continue to apply until August 2021. However after this date we don't know what will happen with permitted development rights for office to residential (i.e. will all class E properties be permitted to change or will they do a partial replacement).
- It could result in an increase in leisure and retail uses in industrial estates. This has caused conflict with users in the past.

Use	Current Use Class	Use Class from 01 Sep
Shop no more than 280sqm mostly selling essential goods and with no other provision within 1km	A1	F2
All other Shops	A1	E
Financial and Professional Services	A2	E
Café or Restaurant	A3	E
Pub or drinking establishment	A4	Sui Generis
Hot food take away	A5	Sui Generis
Office	B1a	E
Research and development	B1b	E
Light industrial	B1c	E
Industrial	B2	B2
Storage and Distribution	B8	B8
Hotels and guest houses	C1	C1
Residential institutions	C2	C2
Secure residential institutions	C2a	C2a
Dwelling houses	C3	C3
Small HMO (up to 6 residents)	C4	C4
Clinics health centres, crèches, day nurseries, day centre	D1	E
Education, museums, libraries, exhibition/public halls, places of worship, law courts	D1	F1
Cinemas, concert halls, bingo halls, dance halls	D2	Sui Generis
Gymnasiums, indoor recreation	D2	E
Hall or meeting place for the community	D2	F2
Swimming pools, skating rinks, sports and recreation.	D2	F2

## The Planning White Paper – Planning for the Future

Published 06<sup>th</sup> August and consultation running for 12 weeks.

Officers have been considering this in more detail since this original summary was put together and further detail can be found in the SD Panel report located [here](#).

A brief summary of the main changes is set out below and the document is located [here](#).

### Governments Case & Context

- Likens the planning system to a 70 year old house which has been repaired, extended and rebuilt by the whims of whomever holds the deeds at the time.
- Radical reform is necessary and a complete overhaul is needed.
- System is too complex, decisions are discretionary not rules based, seeks to cut red tape but maintain standards.
- Public trust has been lost in the system.
- Technology is out of date.
- Assessment of housing need, viability, environmental impacts are too complex and opaque.
- Local plan process takes too long.
- Developer contributions and affordable housing is too complex.
- System does not facilitate enough homes being delivered.
- Although, acknowledges the importance of a planning system in creating great places.

### Proposals

#### Local Plans

- Point to an ideal of more simplistic rules based Victorian style planning;
- Local plans shorter in length and focused on site specifics and the allocation of sufficient land for development.
- Simplify local plans using rules based planning and introduce zoning as follows:
  - Growth areas – substantial development – outline approval given automatically;
  - Renewal areas – suitable for some development and densification, presumption in favour of development;
  - Protected areas – development restricted.
- To be adopted within 30 months or have government intervention.
- Sustainability appraisals are removed and replaced with a sustainable development test.
- Increase community involvement at plan making stage and reduce it at decision making stage.
- New data driven digital local plans (machine readable) and digital engagement systems in planning.
- A new standard methodology for housing requirements, maintaining the requirement for a Housing Delivery Test.
- Neighbourhood plans retained.
- Increase supply particularly in areas with affordability pressures to overcome affordability pressures and promote competition by requiring large sites to come forward with multiple developers and involving small builders.

#### Decision Making

- Generic development management policies to be set nationally and set out specific development standards.
- Decision making to be faster with greater use of digital technology. Automatic refund of planning fees if not determined in time or an appeal is overturned.
- Automatic outline permission in growth areas and other forms of automatic permission for certain development types and high quality developments subject to rules based criteria.

- A subsequent details permission would be required or a local development order to grant consent automatically or development consent order on larger sites.
- A masterplan and design code should be agreed in growth areas as part of any permission in principal (prepared by the local authority – we have done similar work in the past e.g. Prospect House)
- Development different to the plan could come forward but would be the exception not the rule and would require a full application.
- Reduced information requirements on applications set nationally.
- Digital consultation.
- Greater delegation of decisions.
- Widening of permitted development to allow replicable forms of development to take place, with prior approval process continuing for some forms of development.
- Suggest that judicial review risk will be lessened under a rules based system.

## **Design**

- New development to be beautiful with a net-gain design requirement
- Local design codes to be produced, must have community support and must have bite to make them binding.
- New national design code and manual for streets to be published in the autumn.

## **Environment**

- EIA and SA practice based on European legislation to be dropped and a simpler system for assessing environmental impact introduced to avoid duplication.
- Seeks biodiversity net gains.
- Carbon neutral by 2050 (originally 2016).
- Local plans can still set spatially specific objectives around renewable energy and important views.
- Heritage assets to continue to have protection in local plans.

## **Enforcement**

- Recognised as under-resourced. Suggest the revised system will free-up resource to do more enforcement.
- Stronger enforcement powers to be introduced.

## **Resources**

- Authorities must have a chief officer for design and place-making.
- Propose to bring forward proposals to better resource planning departments later in the year and suggest that the simplification of the local plan system will allow for a re-focusing of resources.
- A step change in design skills will be needed in local authorities.
- Cost of planning services should be principally borne by land owners and developers albeit some plan making activities and enforcement should continue to be funded by local taxation – this will be considered as part of the spending review.
- Fees to be set nationally (although the HCLG committee last week recommended local fee setting).
- A new performance framework for local planning authorities to be established.

## **Infrastructure**

- National flat rate Infrastructure Levy (IL) based on the final value of a development.
- Include a value-based minimum threshold below which IL is not charged to avoid making development unviable. Potential for partial charge for marginal developments.

- Removal of S106 agreements and consideration of viability at decision stage.
- IL will cover affordable housing and assist local authorities to secure more housing on-site via a potential in-kind delivery on site. The reduced rate the RP pays compared to market is taken in-kind against the IL.
- Exemptions from the IL to be reduced so that changes of use (even if permitted development) which lead to a land value uplift are captured.
- IL to be paid at occupation rather than commencement.
- Local authorities to be able to borrow against IL revenues to support more infrastructure delivery.
- Neighbourhood share of IL to remain. Communities should be engaged on spending priorities.
- Certain amounts should be ring-fenced for affordable housing.

### **Other parallel consultations**

There are also consultations running on:

- The standard methodology for housing need - this would introduce a new element – a percentage of existing housing stock levels which takes into account the number of homes already in an area
- Securing of First Homes – requiring 25% of all affordable housing secured through developer contributions (and subsequently the IL) will be First Homes.
- Temporary lifting the small sites threshold for affordable housing provision to 40 or 50 units.
- Extending current Permission in Principle to major development.