



## **PLANNING UPDATE NEWSLETTER**

Welcome to this latest newsletter, which summarises several recent changes to the planning system. Many of these – and especially those being introduced by the Business and Planning Act 2020 – are a further response to the challenges posed by COVID-19, and the need to ensure that the system can continue to operate effectively and support the recovery. The Government has indicated that it intends to bring forward proposals for wider reform of the planning system in the near future, and we will circulate a further Planning Update Newsletter at that time.

**Dr Michael Bingham OBE**  
**Interim Chief Planner**

### **Business and Planning Act 2020**

The Business and Planning Bill received Royal Assent on 22 July 2020. It introduces a series of urgent, mostly temporary measures intended to help businesses, particularly in the hard-hit hospitality and construction sectors, to get back to work safely and quickly.

#### **Outdoor Seating**

As part of the [Business and Planning Act 2020](#) we are supporting our businesses which sell food or drink, such as cafes, pubs and restaurants by introducing a temporary fast-track process for these businesses to obtain permission from the local council for a pavement licence. These licences enable the business to place furniture such as stalls, tables and chairs on the pavement outside their premises, enabling them to maximise their capacity whilst adhering to social distancing guidelines.

This includes a capped application fee of £100, and quicker consultation and determination periods which means that businesses can obtain licences in a timely and cost-effective manner aiding their financial recovery. When granted, the licence also provides deemed planning permission for anything done by the licence-holder pursuant to the licence.

The Act also provides local authorities with robust enforcement and revocation powers so councils can safeguard public safety and amenity. There is a clear requirement within the Act that accessibility for highways users, in particular disabled people, should be protected, which is why these licences will be subject to a no-

obstruction condition which seeks to prevent unacceptable obstructions. When local authorities are determining whether furniture put on the highway would be, or already is, an unacceptable obstruction, they will also need to have specific regard to the needs of disabled people, and to any recommended distances required for access by disabled people as set out in guidance issued by the Secretary of State.

Further information on these measures can be found in the [pavement licenses guidance](#).

## **Extending Planning Permissions**

We have introduced measures through the [Business and Planning Act 2020](#) to provide for an extension to planning permissions and listed building consents which have lapsed or are due to lapse between 23 March and 31 December 2020. This extension will be to 1 May 2021.

The extension will apply automatically for permissions and consents which are extant in between the measures coming into force on 19 August 2020 and 31 December 2020. Any planning permissions which have lapsed since 23 March 2020 can be reinstated and extended subject to an Additional Environmental Approval.

More information on these measures, including the process for Additional Environmental Approval, can be found in the [planning practice guidance](#).

## **Construction Site Hours**

The [Business and Planning Act 2020](#) has introduced measures to provide for a temporary, fast track deemed consent route for developers to apply to local planning authorities to vary existing conditions, or the details submitted under a condition, that limit construction site working hours. This measure comes into force on 28 July 2020. Local authorities have 14 calendar days excluding public and bank holidays to consider such applications.

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.

More information can be found in the [published guidance](#).

## **Hybrid Appeals**

We have introduced measures through the [Business and Planning Act 2020](#) to enable the Planning Inspectorate, on behalf of the Secretary of State, to apply more than one type of procedure (inquiry, hearing and/or written representations), depending on the particular issue at hand, when dealing with certain planning appeals under section [319A of the Town and Country Planning Act 1990](#) or under

section [88D of the Planning \(Listed Buildings and Conservation Areas\) Act 1990](#) or section [21A of the Planning \(Hazardous Substances\) Act 1990](#).

The Inspectorate will be updating its procedural guides shortly to reflect this new flexibility available to its Inspectors in conducting certain appeals.

## **London Plan Spatial Development Strategy**

In response to the impact of Covid-19 we have introduced measures through the [Business and Planning Act 2020](#) to allow for the Mayor of London's current spatial development strategy to be inspected electronically. The Act removes the requirements on the Mayor, in the [Greater London Authority Act 1999](#), to make copies available for physical inspection and to provide hard copies upon request, if the strategy is available for inspection by appropriate electronic means. This is a temporary measure that expires on 31 December.

[Guidance](#) has been produced in support of this provision and it is designed to ensure the strategy is made available electronically in the most convenient way. It also provides guidance on how the Greater London Authority could make arrangements for appropriate mitigation where persons are not able to access the strategy by electronic means.

We have, through secondary legislation, introduced measures for other aspects of the plan making regime which are covered in detail below (digitising planning).

## **Regulations**

### **Use Class Reform**

We have introduced regulations to reform and simplify the Use Classes Order to make it easier for high street uses to change use without the need for a planning application. This will create a new broad category of 'commercial, business and service' uses which will allow commercial, retail and leisure uses greater freedom to adapt to changing circumstances and respond to the needs of their local communities. A new community and learning class will allow for the protection of community facilities and infrastructure. Certain uses such as pubs and theatres will remain protected, while others such as hot food takeaways or betting shops will require full planning consent.

The regulations provide for the existing range of permitted development rights in the GDPO to be preserved as of 31 August until 31 July 2021. Individual buildings and uses will be able to exercise the permitted development right they were entitled to on 31 August 2020. The regulations come into force on 1 September 2020 and can be accessed [here](#).

### **Permitted Development Rights**

### Building Up

New permitted development rights are being introduced to extend buildings upwards to create new homes and living space. Regulations introduced on 24 June allow purpose-built freestanding blocks of flats of three storeys or more to extend upwards by up to 2 additional storeys to create new homes, up to a height of 30m. This right comes into force on 1 August 2020.

The Regulations also introduced time-limited measures to support businesses as coronavirus restrictions are lifted. These allow a local authority to use land to hold a market and erect moveable structures on it for an unlimited number of days until 23 March 2021, and provide an additional 28 days for the temporary use of land for any purpose (or 14 days for use as a market or for car and motorcycle racing) between 1 July 2020 and 31 December 2020. The regulations can be accessed [here](#).

A second phase of new permitted development rights to build upwards allow up to 2 additional storeys on free standing blocks, up to a height of 30 metres, and on buildings in a terrace (of 2 or more buildings) in certain commercial uses. They also allow up to 2 additional storeys on existing houses, detached or in a terrace, to create new self-contained homes or additional living space up to a height of 18 metres. Single storey homes will be able to add 1 additional storey. There are conditions and a number of prior approvals are required including on specific matters including the external appearance of the proposed development and its impact on the amenity of neighbours. The regulations come into force on 31 August 2020 and can be accessed [here](#).

### Demolition and Rebuilding as Residential

We have introduced a new permitted development right to allow vacant and redundant free-standing commercial and light industrial premises, and residential blocks of flats, to be demolished and replaced with new residential units. At the same time the right will allow up to 2 storeys to be added to the height of the original building, to help create more homes, as long as the resulting residential building is no higher than 18 metres.

There are conditions and the right is subject to prior approval by the local planning authority. The regulations come into force on 31 August 2020 and can be accessed [here](#).

### **Fees for the construction of new homes**

We are currently amending the fees regulations to provide for a prior approval fee for homes constructed under the rights to build upwards to create new homes, and to the right for demolition and rebuild. The prior approval fee is set at £334 per new dwelling up to 50 units, and a fixed fee of £16,525 plus £100 for each dwelling in excess of 50. These amendments are subject to Parliamentary approval.

### **Community Infrastructure Levy (CIL) Deferral**

We have introduced regulations to give CIL charging authorities a discretion which is applicable for a limited time (in certain prescribed circumstances and if it is considered appropriate) to defer CIL payments, to disapply late payment interest and surcharge payments; and to credit interest already charged to developers.

The regulations which came into force on 22 July 2020 can be accessed [here](#).

We have also [published guidance](#) on CIL matters in response to the spread of coronavirus (COVID-19), including an explanation of the 2020 Regulations.

## **Digitising Planning**

In line with the [Written Ministerial Statement on 25 June](#) ('Planning update') we have brought forward measures in response to Covid-19 to support the move to online inspection of documents intended to ensure the planning system continues to operate effectively.

### Plan making

We have taken on board concerns raised by local planning authorities and other stakeholders about the implications of Covid-19 on the ability to progress plan making. We have already published [guidance](#) on reviewing and updating the statement of community involvement. The following changes all apply until 31 December 2020.

New legislation has now come into force for local development documents (amending, on a temporary basis, regulations [35 and 36 of the Town and Country Planning \(Local Planning\) \(England\) Regulations 2012](#)). We have also brought forward secondary legislation in relation to spatial development strategies (amending the [Town and Country Planning \(London Spatial Development Strategy\) Regulations 2000](#) and the [Combined Authorities \(Spatial Development Strategy\) Regulations 2018](#)) which will come into force on 12 August 2020. These changes remove requirements to make certain documents available for inspection at premises and to provide hard copies on request. The documents must, instead, be made available for inspection online. This will support local planning authorities and mayoral combined authorities to continue to progress up-to-date Local Plans and spatial development strategies.

Planning practice [guidance](#) has also been updated outlining how local planning authorities and mayoral combined authorities should consider the practical measures needed to ensure fair participation is possible.

Similarly, we have also temporarily modified the inspection and notification requirements that apply to Strategic Environment Assessments (SEA), through the introduction of regulation 18 in the [Environmental Assessment of Plans and Programmes Regulations 2004](#) ("the SEA Regulations") by the [Environmental Assessment of Plans and Programmes \(Coronavirus\) \(Amendment\) Regulations 2020](#). These modifications remove requirements for physical copies of SEA-related documents to be available for inspection at an address and for hard copies to be

made available. Instead, copies of the relevant documents must be made available for inspection online. Notification requirements have also been amended to reflect these changes. Planning practice [guidance](#) has been updated to support responsible authorities to meet these requirements.

### Nationally Significant Infrastructure Projects

We have introduced temporary changes to certain publicity requirements in the Nationally Significant Infrastructure Project regime through the [Infrastructure Planning \(Publication and Notification of Applications etc.\) \(Coronavirus\) \(Amendment\) Regulations 2020](#). The Regulations came into force on 22 July 2020 and remove obligations on applicants (or the Secretary of State, as the case may be) to include in relevant notices the addresses where certain documentation is available for inspection. Instead, applicants are required to make the relevant documentation available online and provide a telephone number for general enquiries. [Guidance](#) has been published to support these temporary changes.

## **Written Ministerial Statements of 14 July 2020**

### **Support for Theatres, Concert Halls and Live Music Performance Venues**

In response to the impact of Covid-19, we have made a [Written Ministerial Statement](#) to support theatres, concert halls and live music performance venues. The Statement requires local planning authorities to take into consideration the impact of Covid-19 business disruption, in determining applications for demolition or change of use of these venues. Guidance on the Written Ministerial Statement can be accessed [here](#).

### **Extended opening of holiday parks, caravan parks and campsites**

The Government recognises that holiday parks, caravan parks and campsites may decide to extend opening beyond the summer season to support these businesses to recover from Covid-19 business disruption. In some cases, planning conditions may restrict their open season. We have made a [Written Ministerial Statement](#) to emphasise that planning enforcement is a discretionary activity, and local planning authorities should not seek to undertake enforcement action which would unnecessarily restrict the ability of holiday parks, caravan parks and campsites to extend their open season. Local planning authorities should also prioritise decision making for applications to vary relevant planning conditions, and take account of the economic benefits resulting from extended opening. Guidance on the Written Ministerial Statement can be accessed [here](#).

## **Consultations**

### **England Tree Strategy**

[A consultation on the England Tree Strategy](#) was launched by the government on 19th June to seek views on how to increase tree planting and tree and woodland

management across the country. The strategy will, subject to consultation, set out policies to expand tree cover, support woodland management and increase public engagement with trees and woodlands. This will help to ensure the government's tree planting commitment to increase tree planting to 30,000 hectares per year across the UK by 2025 is delivered.

As part of the consultation the government is asking for views, including from local authorities and developers, on the key challenges for the planting and on-going maintenance of street and urban trees in new and existing developments. This is to help ensure delivery of the Government's commitment for all new streets to be tree-lined, as well as proposals on street trees within the final report of the Building Better, Building Beautiful Commission.

The consultation runs for 12 weeks and closes on 11 September 2020.

### **Permitted Development Rights to support 5G and extend mobile coverage**

On 22 July the Government published [its response](#) to the joint MHCLG and DCMS consultation on proposed planning reforms to support the deployment of 5G and extend mobile coverage. This consultation was published in August 2019 and sought views on the principle of amending permitted development rights for operators with rights under the Electronic Communications Code and the circumstances in which it would be appropriate to do so.

The government response summarises the responses received and confirms its intention to take forward the in-principle proposals consulted on, subject to a technical consultation, to enable:

- the deployment of taller and wider masts;
- building-based masts located nearer to highways; and
- faster deployment of radio equipment housing, such as equipment cabinets.

The response sets out that in taking forward these proposals, we will work with representatives of local planning authorities as well as the mobile industry to develop a technical consultation on the detail of the proposals, including the appropriate environmental protections and other safeguards to mitigate the impact of new mobile infrastructure, prior to amending [Part 16 of Schedule 2 to the Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#) (as amended).

### **Wider Planning Matters**

#### **Local Digital Planning Projects**

Since December 2018, MHCLG has been funding two local government led projects:

- [reducing invalid planning applications \(RIPA\)](#), and
- [back office planning system \(BOPS\)](#).

Both projects are collaborating with a small number of councils to improve the planning process for applicants and planners alike. Initially focusing on permitted

development and householder applications, these projects are producing reusable outputs that any other council can make use of.

The project team would like more councils to get involved through user research and becoming first adopters. There are a number of ways to get involved:

- be one of the first councils to start using the systems
- take part in user research and help shape the outputs
- receive regular updates about the projects
- join 'show and tells' to hear regular project updates

To find out more or get involved, please email:

- [digitalplanning@lambeth.gov.uk](mailto:digitalplanning@lambeth.gov.uk) for RIPA, or
- [jack.ricketts@southwark.gov.uk](mailto:jack.ricketts@southwark.gov.uk) for BOPS.

### **Home loss payments under the Land Compensation Act 1973**

Home loss payments are payable to owner-occupiers and tenants of dwellings displaced by compulsory purchase or public redevelopment. They have been reviewed annually since 2003. Following the 2020 review, the Government has decided to raise the maximum and minimum payment thresholds for payments to owner-occupiers from £64,000 and £6,400 to £65,000 and £6,500 respectively. The flat rate paid to tenants has been raised from £6,400 to £6,500. The [Home Loss Payments \(Prescribed Amounts\) \(England\) Regulations 2020](#) come into force on 1 October 2020.

### **Neighbourhood Planning Support**

The Government has committed to providing communities in urban areas and deprived areas (places that are amongst the 20% most deprived areas in England, in accordance with the Index of Multiple Deprivation) with direct additional support for neighbourhood planning. The additional support, to be launched on 10 August 2020, will increase the grant available to neighbourhood planning groups in urban and deprived areas from £10,000 to £18,000 and give them access to a range of technical planning support packages, which only a limited range of groups currently qualify for.

The Government has also increased the value of Basic Grant available to neighbourhood planning groups from £9,000 to £10,000, to reflect the additional costs communities may face in preparing and consulting on neighbourhood plans during current Covid-19 restrictions.

### **Government Review of Planning Policy for Flood Risk**

In our paper '[Planning for the Future](#)', published earlier this year, the Government committed to review policy for building in areas at risk of flooding, assess whether current protections in the National Planning Policy Framework are enough and consider options for further reform.



We need the expert advice of those involved in planning and delivering new development and advising on flood risk to help us understand what works well and what could be improved. To help us achieve these aims, we would like to invite all Local Planning Authorities to complete a short survey accessible through [this link](#).

Views collected by this questionnaire will inform this review and apply to planning policy for England only. Responses to the questionnaire should be submitted online only, as it enables more efficient and effective consideration of the issues raised. The survey will close at 23:45 on 16 August 2020. We would recommend that respondents access the survey through Google Chrome; we are aware of some issues when using Explorer.

Many Planning Authorities will have responded to the TCPA's survey on [Planning for Climate Change at the Local Level](#) that closed last month. Our survey builds on their work and focusses specifically on flood risk and does not repeat any of the survey questions asked by the TCPA.

We would be very grateful if you could forward the link to the survey to appropriate officials within your organisation and encourage them to submit a response.