



Ministry of Housing,
Communities &
Local Government

Local authority development – effect of planning permission

Government response to consultation



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Introduction

1. The Town and Country Planning General Regulations 1992 enable local planning authorities to determine their own development proposals on land in which they have an interest. The Regulations stipulate that where a local planning authority grants permission for its own development, the resulting permission is 'personal' to the authority (and any joint applicant) and cannot be implemented by any other body, including future owners of the land.
2. This constraint has previously been removed in unitary authorities (including London Boroughs and metropolitan councils) and Urban Development Corporations. Such bodies can therefore dispose of land with the benefit of planning permission they have granted themselves. This gives them the flexibility to proactively promote development of their land holdings by selling on 'development-ready' land, reducing risk for developers – including small-scale and custom builders.
3. However, the constraint on the effect of planning permission still applies in two-tier authorities. A developer purchasing land from a county or district council would need to re-apply for planning permission in order to carry out the development previously consented by the authority. This adds time, expense and risk. It limits delivery options for local authorities in two-tier areas which are seeking to take a proactive role in accelerating development on their own land.
4. The Government considers that there is no good reason for this discrepancy between authorities. Therefore, Question 5 of the Housing White Paper, [Fixing our broken housing market](#), sought views on amending regulations so that all local authorities can dispose of their land with the benefit of planning permission which they have granted themselves.
5. A total of 712 responses were received from a wide cross-section of respondents including local authorities, local councils, individuals, developers, neighbourhood forums, industry representative bodies, professionals, professional institutions and associations and voluntary/charitable/community/research organisations.
6. This document provides a summary of the responses and sets out the Government's response.

Local authority development - effect of planning permission

Summary of responses

7. There was considerable support for the proposal to allow all local authorities to dispose of their land with the benefit of planning permission they have granted themselves.
8. The key reasons given by those who supported the proposal were that:
 - it would give local authorities greater flexibility, allowing them to take a more proactive approach to land assembly and to bring forward public sector land for development more quickly and efficiently
 - it would allow local authorities to benefit from the uplift in land values arising for the grant of planning permission
 - there was no good reason for the current difference in powers and the proposal will bring consistency
9. However, a number of those who supported the proposal suggested there may be potential for misuse of the power and the need for appropriate safeguards to ensure transparency and accountability.
10. The potential for misuse was also the main concern raised by those respondents who did not support the proposal. Some respondents offered suggested safeguards, including that all cases should automatically be referred to the Secretary of State to consider if they should be called in or not.

Government response

11. The Government welcomes the support for this proposal. We acknowledge the concerns raised by respondents about the need to ensure that the power is not misused by local authorities. However, we note that this was raised as a general concern – rather than a specific concern about two-tier authorities.
12. We consider that the current rules which apply to unitary authorities already contain sufficient safeguards to protect against misuse. Local authorities have to advertise and consult on their own applications in the same way as any other application. They cannot be determined by a committee, sub-committee or officer of the authority concerned for the management of any land or buildings to which the application relates. And like any other planning application, local authorities' own applications must be decided in accordance with the development plan unless material considerations indicate otherwise and authorities must take account of relevant planning objections made by local residents.

13. The Government considers that all local authorities should be placed on the same footing in terms of handling their own development proposals. We have therefore, decided to take forward the proposal as consulted upon in the White Paper.

Next steps

14. [The Town and Country Planning General \(Amendment\) \(England\) Regulations 2018](#), which will give effect to the amended provisions, was laid before Parliament on 31 January 2018 and will come into force on 23 February 2018.