

# South West planning news



© JackPeasePhotography / Flickr

JANUARY 2018

## Headline news

### DCLG's Chief Planner sums up recent planning law and policy reforms, and what's due in 2018

To help the development sector at the start of what will be a busy planning year ahead, DCLG has published a planning update newsletter that helpfully summarises the latest on the Government's programme of planning reform. It was sent by Chief Planner Steve Quartermain to local authority (LA) chief planners on 21 December.

The letter starts with the proposed consultation on a revised National Planning Policy Framework (NPPF) 'early this year'; it will be in place 'before the end of the summer'. There is nothing further on its content but Housing Minister Alok Sharma had already said earlier in December in a Parliamentary Written Answer that the 'definition of starter homes is being finalised' as part of revised Framework. In another Answer, the Minister alluded to the design policy content to be expected.

Moving on to other Autumn Budget-announced measures, the letter explains new regulations that effectively will mean 5 yearly or more frequent local plan review, and other new rules that give neighbourhood planning bodies more say on planning applications, more flexibility in plan review and more resources. LAs will have more

planning resources from 17 January too, with a 20% increase in planning application fees, plus new fees e.g. for applications for permissions in principle.

Funding features significantly elsewhere in the Chief Planner's letter too; expressions of interest have to be

submitted by 11 January for a share of the new £25 million Planning Delivery Fund, to be used for creating additional LA capacity (including increasing design skills), and for innovating in planning services' delivery. As well as being stated in the Prospectus, and according to Housing and Planning Minister Alok Sharma (as announced via a Written Ministerial Statement), the Planning Delivery Fund will support ambitious councils and third sector organisations in areas of high housing need (also as referred to in DCLG 'Right homes, right places') to plan for new homes and infrastructure.

Infrastructure funding is confirmed as set to change further and in line with Autumn Budget proposals, with a consultation on community infrastructure levy (CIL) reforms to 'be issued in due course' (CIL amendment regulations should in the meantime help deal with a problem regarding 573 permissions and indexing).

The Housing White Paper's housing delivery test is making some, albeit slow progress, with LAs having this month to provide DCLG with an up-to-date record of local plan figures to measure delivery against.

Other updates covered include permitted development right (PDR) changes of use from light industrial to residential, brownfield land registers, compulsory purchase and electricity storage systems.

### Planning applications fee increases from 17 January

An increase to planning-related fees of approximately 20% applies to applications etc. being submitted on or after 17 January, when the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2017 come into force.

The Regulations follow a Housing White Paper commitment to LPAs to apply this increase to fees, provided that they confirm ►►

## QUOTE OF THE MONTH



I reiterate that it is vital we have well-resourced, effective and efficient local authority planning departments to provide new homes and deliver economic growth, as the hon. Gentleman set out. We expect local authorities to match the recommended fee increases with an ongoing improvement of service when handling planning applications.

Minister for Housing and Planning Alok Sharma, in a House of Commons debate on draft amendments to planning application fee regulations, 13 December 2017

## THE LICHFIELDS PERSPECTIVE

The long-awaited increase to planning-related fees is a welcome start to 2018, provided that it achieves the anticipated – and corresponding – improved resourcing of planning departments and raised levels of staff retention.

Justin Gartland, Chairman

## CONTACT US

Andrew Cockett  
andrew.cockett@lichfields.uk  
T: 0117 403 1980

Sophie White  
sophie.white@lichfields.uk  
T: 0117 403 1980

Margaret Baddeley  
margaret.baddeley@lichfields.uk  
T: 020 7837 4477

Jennie Baker  
jennie.baker@lichfields.uk  
T: 020 7837 4477

LICHFIELDS

### Disclaimer

This publication has been written in general terms and cannot be relied on to cover specific situations. We recommend that you obtain professional advice before acting or refraining from acting on any of the contents of this publication. Lichfields accepts no duty of care or liability for any loss occasioned to any person acting or refraining from acting as a result of any material in this publication. Lichfields is the trading name of Nathaniel Lichfield & Partners Limited. Registered in England, no. 2778116. Registered office: 14 Regent's Wharf, All Saints Street, London N1 9RL © Nathaniel Lichfield & Partners Ltd 2018. All rights reserved.

investment of the additional income in their planning departments. According to the Explanatory Memorandum:

‘These Regulations increase the fees for planning applications by 20% and increase the fee ceilings by 20% for those local authorities that have committed to invest the additional fee income in their planning departments. This commitment has been made by all local planning authorities in England.’

In addition to the general increases in fees, the following are to be introduced:

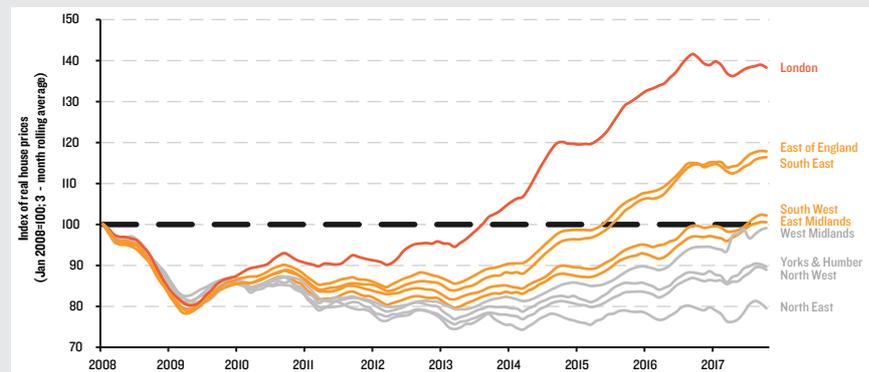
- Fees for planning applications where only required because PDRs have been removed by an Article 4 Direction or a planning condition;
- Fees for pre-application advice from Mayoral and Urban Development Corporations;
- Fees for prior approval applications relating to the PDRs introduced in April 2015 and April 2017. As the Chief Planning Officer letter (see above) explains: ‘These include the rights for the installation of solar PV equipment on non-domestic buildings, the erection of click-and-collect facilities within the land area of a shop, the temporary use of buildings or land for film-making purposes and the provision of temporary school buildings on vacant commercial land for state funded schools.’
- Fees for permission in principle (PIP) applications (which may be submitted from 1 June 2018, see below), and non-material amendments to PIPs.

A transitional provision applies to applications or requests made, or site visits taking place, prior to 17 January 2018.

The Government’s consultation on a further 20% increase to planning fees being applied to those LPAs ‘delivering the homes their communities need’, or in other circumstances, closed on 9 November 2017. DCLG is currently reviewing responses.

By virtue of Regulation 19 of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, the government was required to publish a review of those Fee Regulations against their objectives before 21 November 2017; we are not aware that this has been published yet.

Figure I: East Midlands house prices have now reached their pre-crash peak



Source: ONS, Lichfields analysis

Figure I shows that according to Office for National Statistics data released in December 2017 real house prices are now

above their pre-crash peak in London, the South East, the East, the South West, and (most recently) the East Midlands.

### Local plan reviews required every 5 years or less, from 6 April

The Town and Country Planning (Local Planning) (England)(Amendment) Regulations 2017 have been made and laid before Parliament; they are accompanied by a lengthy Explanatory Memorandum.

From 6 April, local planning authorities (LPAs) must review their local plans and statements of community involvement every five years, starting from the date of adoption.

From 15 January, further to the SoS power in the Neighbourhood Planning Act 2017 to direct two or more LPAs to prepare a joint development plan document (e.g. a local plan), Regulation 8 prescribes the meanings of jointly prepared development plan documents that can be taken forward by one or more LAs, after a SoS direction has been withdrawn or modified. It is of note that the Explanatory Memorandum states how:

‘...the Government indicated at the Commons Committee stage of the Neighbourhood Planning Bill 2017, the power related to joint planning is likely to be used only rarely and in reality be deployed after detailed consideration of the individual case, and used where agreement between authorities is remote.’

### Neighbourhood planning changes in force from end of January

Coming into force on 31 January, the Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations 2017 amend 2012 Regulations to apply the existing procedure for making a neighbourhood development plan (NDP) to plan modification.

The Regulations implement s4 of the Neighbourhood Planning Act 2017, which inserts Schedule A2 into the Planning and Compulsory Purchase Act 2004, to deal with the modification of NDPs in a similar way to new plans (as in Schedule 4B to the Town and Country Planning Act 1990). Transitional arrangements relating to proposals for NDP modification submitted to an LPA before 31 January mean that existing requirements for modification continue to apply – i.e. the same process has to be followed as for making a new plan. The Explanatory Memorandum accompanying the amendment Regulations explains:

‘The main differences between the existing modification procedure and new procedure introduced by this instrument is that under the new procedure the recommendations of the independent examiner of a plan will, in most cases, be binding and there will be no referendum before a modified plan comes into legal force.’ ►►

In addition, Regulation 12 amends the Town and Country Planning (Development Management Procedure) (England) Order 2015, as a result of changes to the notification of applications to neighbourhood planning bodies, further to s2 of the Neighbourhood Planning Act 2017. The Explanatory Memorandum accompanying the amendment Regulations explains the change:

'LPAs must automatically notify qualifying bodies of any future planning applications or alterations to those applications in the relevant neighbourhood area where there is an advanced neighbourhood plan and the qualifying body has not confirmed in writing to the LPA that it does not wish to be notified.'

### Permission in principle on application from June 2018

Applications for PIP for minor residential development of land, the main purpose of which is housing development, may be submitted to LPAs from 1 June 2018, when the Town and Country Planning (Permission in Principle) (Amendment) Order 2017 comes into force.

The amendment Order provides the necessary procedures for implementing the Housing and Planning Act 2016's provision for making an application for PIP, for sites where between 1 and 9 new houses are proposed.

Applications for PIP cannot be made for major, habitats, householder, and Schedule 1 EIA development. PIP can be granted for Schedule 2 EIA development, providing that a screening opinion that the proposal is not EIA development has been adopted or made.

As yet, there is no PIP application form, nor a form for applying for a non-material amendment to a PIP (the link in the Order's Explanatory Note goes to a page that does not appear to be maintained - this is likely to be updated before 1 June). Perhaps more surprisingly, there is not yet an application form for technical details consent (TDC), notwithstanding that one may already apply for TDC in respect of a site in Part 2 of a council's brownfield land register.

Once a PIP is granted on application, TDC relating to the proposed development would have to be sought within three years.

The Explanatory Memorandum to the Amendment Order states that forthcoming guidance:

'[...] will address our expectations about the detailed practical operation of the policy. We will also support authorities through an active programme of continuous engagement to coincide with the coming into force of the Order.'

Further details can be found in our blog discussing what is known so far about PIPs on application, and in our Guide to PIPs.

### Brownfield land registers: update

The 31 December 2017 statutory deadline for LAs to publish their brownfield land registers has now passed. It appears that approximately half of English local planning authorities have made a brownfield register available on [data.gov.uk](http://data.gov.uk) and, according to the Planning Advisory Service (PAS), DCLG is assessing progress this month.

There are no confirmed sanctions against authorities not having a register in place. Recent parliamentary questions have sought answers from the Communities Secretary on the progress LAs are making on developing their brownfield land registers and the wider issue of the plans he has to bring forward legislative proposals to reduce further the regulatory barriers to housebuilding on brownfield land. In response to both questions, Housing Minister Alok Sharma has referred to the requirement for LPAs to publish a statutory brownfield land register by the end of 2017. ■