

# Housing planning news



MAY 2017

## Headline news

### 8 June general election

A snap general election will take place on 8 June, the House of Commons having voted by 522 votes to 13 to bring forward the scheduled election date from 2020.

Parliament will be dissolved on 3 May, and it is anticipated that the major parties will publish their manifestos during the following week.

Pre-election 'purdah' currently affects the local, mayoral and general elections and has implications for planning legislation, government policy-making and decision-taking.

As a consequence of the general election date, the Neighbourhood Planning Bill's last debate was moved forward a day; in a very short debate the final version of the Bill was agreed in the Lords and it now has Royal Assent.

It is also possible that purdah hastened the publication of DCLG's 'Frequently asked questions on brownfield land registers and permission in principle' (on 21 April). But at the same time, the statutory guidance seems to be delayed, as the intention is that it will now be published by the summer – it was due by June.

The snap general election also means other delays; there is no certainty now as to when the Housing White Paper's consultation on a standardised methodology for assessing 'housing requirements' will be launched – it was expected very soon. Inevitably too, the revisions to the National Planning Policy Framework committed to in the White Paper, alongside those subject of its consultation, will be delayed at least for several months.

On plan-making, it is understood that the City of Bradford Core Strategy

Inspector's Report will not now, after all, be taken forward for consideration 'at the earliest available meeting of Executive and Full Council'. It had been subject of a Secretary of State Holding Direction, preventing it from adoption until recently.

Post-election and once the incoming government is in office, it will have to decide relatively quickly whether there is to be any new planning-related Bill, for inclusion in the Queen's Speech at the next State Opening of Parliament (on 19 June).

An announcement sooner rather than later would be expected then on the stance being taken to the Housing White Paper's proposals – and the recently consulted-on Industrial Strategy Green Paper too.

### Neighbourhood Planning Act 2017

As the Government attempted to conclude its business before Parliament is dissolved ahead of June's snap general election, and following the first day of Ping-Pong in the House of Commons (28 March), on 25 April the Lords had their last chance to scrutinise and debate the final two amendments to the Neighbourhood Planning Bill that had been moved by peers and then rejected in the Commons.

This was the last Parliamentary debate on the Bill before Royal Assent; it had been announced in advance that the Lords would accept the two Commons' amendments (which they did), for:

- not insisting on a clause preventing the use of conditions that were not National Planning Policy Framework-compliant; and
- accepting a clause proposed by the Government that will mean that an amendment can be made to the General Permitted Development Order 2015 (as amended) to remove pub permitted development rights (PDRs) for change of use and demolition. The timing of this further▶▶

## QUOTE OF THE MONTH



Still time to have your say on our plan 2 fix the broken housing market consultation closes 2 May

**Housing and Planning Minister Gavin Barwell on Twitter, on 21 April 2017, referring to the Housing White Paper consultation**

## THE LICHFIELDS PERSPECTIVE

The snap general election comes after Housing and Planning Minister Gavin Barwell's extensive tour of the country, meeting with those responsible for delivery to discuss the approach taken in the Housing White Paper. Both the consultation and Mr Barwell have taken a considered, deal-making and holistic approach to housing and planning policy, one that incentivises local authorities and private developers to focus on the great delivery challenge faced by the country.

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Order amendment is stated in the clause as being, 'as soon as reasonably practicable after the coming into force of this section' of the Bill but on 25 April in the House, Lord Bourne of Aberystwyth gave a firm update:

'Noble Lords will be keen to see regulation as soon as possible, to prevent any further loss of pubs without local consideration. I can therefore commit to laying secondary regulation immediately after Royal Assent, to come into force before the end of May.' See the Lichfields' blog for more on the Act.

## New EIA rules in force from mid-May

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 have been laid before Parliament. They consolidate and amend the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, as subsequently amended. In particular, these Regulations implement amendments which were made by Directive 2014/52/EU to Directive 2011/92/EU of the European Parliament and of the Council; the main changes in the new Regulations relate to:

1. the circumstances when a project may be exempt from the environmental impact assessment (EIA) process;
2. the introduction of 'coordinated procedures' for projects which are also subject to assessment under Council Directive 92/43/EEC (on the conservation of natural habitats and of wild fauna and flora), or Directive 2009/147/EC of the European Parliament and of the Council (on the conservation of wild birds);
3. the list of environmental factors to be considered as part of the EIA process;
4. the information to be provided to inform a screening decision, and the criteria applied when making that decision;
5. how an environmental statement is prepared, including an amendment to the information to be included, the introduction of a requirement that it is based on a scoping opinion (where there is one) - and a requirement that it is prepared by 'a competent expert';
6. how the public is informed of EIA projects; and
7. decision-makers avoiding conflicts of interest.

The new Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 implement the same Directives, and consolidate with amendments the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009, and subsequent amending instruments.

The Regulations all come into force on 16 May 2017; an Explanatory Memorandum summarises the key changes in both, and their background.

## Brownfield registers and permission in principle: new guidance follows Government response to 2016 consultation

Just before the snap election was confirmed, DCLG published new, non-statutory guidance on brownfield land registers and permission in principle, in the form of 'frequently asked questions'.

The guidance - on the Town and Country Planning (Brownfield Land Register) Regulations 2017 and the Town and Country Planning (Permission in Principle) Order 2017 (both have been in force since mid-April) - is in effect interim. It states the Government's intention 'to publish statutory guidance to explain our policy for brownfield registers in more detail' by the summer. It will also apparently at the same time set out the Government's 'expectations for the operation of the policy and the requirements of the secondary legislation'.

The new guidance also confirms that 'legislation to allow permission in principle to be granted by application for minor developments' will be 'brought in' later in the year and 'through future development plans in due course'.

The Explanatory Memorandum published with the Regulations in March this year had stated that the intention was that the guidance would be published 'by June 2017'.

It is of note that alongside its 3 April confirmation of the coming into force of the two sets of Regulations later in April, DCLG published its consultation response to the 2016 consultation on both. Of particular interest are the Government's responses to Questions 2.4 and 2.7, dealing with technical details consent (TDC). In its response, the Government clarifies:

'We consider that the approach to describing parameters at the permission in principle stage should be clearly stated but sufficiently flexible to allow local planning authorities to make the necessary adjustments when the detailed proposals come forward. We will set out the general principles for describing the parameters in guidance.'

and

'We welcome the positive responses to our proposals for information requirements. Secondary legislation will provide for the requirements which will be based on our consultation proposals.'

**Comment:** despite these publications, it still remains unclear as to how technical details consent will be applied for and consulted on. DCLG have confirmed verbally that such applications are already 'covered' by the current Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) but as yet there is no form for such applications, and no guidance as to their content.

## Housing minister expands on housing delivery test action plans

Giving evidence at a House of Commons CLG Committee inquiry into the Housing White Paper and business rates in mid-April, Housing and Planning Minister Gavin Barwell spoke of the proposed housing delivery test action plans that councils would have to produce if they failed to deliver their housing targets.

He said that where such plans had to be prepared by councils:

'...we will want to engage with them straight away. For both of us, the frustration of this job is how long it takes from once you have made the decision to homes being built around the country, so we do not want to sit around for two or three years and wait to see if things improve. We want to get on straight away and work with people...'

Lichfields has prepared an Insight Focus which shows the preliminary results of the housing delivery test at a national, regional and local level as well as identifying whether the Green Belt plays a significant role. ■