

# Commercial 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 (see Lichfields' blog for more).

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 Order amendment is stated in the clause as ►►

## 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 that closed yesterday**

## 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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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.'

## 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.

## The Town and Country Planning (General Permitted Development) (England) (No. 2) (Amendment) Order 2017

As required by the Neighbourhood Planning Act 2017, and within the timescale promised in the Lords, amendments to the Town and Country Planning (General Permitted Development) (England) Order 2015 removing certain permitted development rights for pubs will come into force on 23 May 2017.

The Town and Country Planning (General Permitted Development) (England) (No. 2) (Amendment) Order 2017 ('GDPO amendment') removes permitted development rights to change drinking establishments (use class A4) to use class A1 (shops), A2 (financial and professional services), or A3 (restaurants). Temporary permitted development rights to change from a drinking establishment, or 'a drinking establishment with expanded food provision' to a school, and to use classes A1, A2 or A3, will also be removed. 'Drinking establishments with expanded food provision', where a pub or other drinking establishment use operates concurrently with a use falling within Class A3, is a new typology, introduced by the GDPO amendment. 'Drinking establishments with expanded food provision' are not defined further.

New Class AA permitted development rights added to Part 3, Schedule 2 will permit change of use from drinking establishments to drinking establishments with expanded food provision, with no limitations or conditions (Article 3 of the Amendment Order). Drinking establishments with expanded food provision may not change to a restaurant without applying for planning permission

Planning permission will also be required to demolish a drinking establishment, or a drinking establishment with expanded food provision.

As a consequence of the removal of these rights, the current requirement to establish with the local planning authority whether the drinking establishment has been nominated as an asset of community value will be removed.

There are transitional arrangements relating to the date of 23 May: where a request for confirmation from the local planning authority as to whether the building has been nominated or listed as an asset of community value was made more than 56 days beforehand, the development can begin; and re. demolition, prior approval must have been granted, determined not required or deemed granted before that date.

The new right in Article 3 is postponed for 18 months, for a building which falls within the scope of an Article 4 direction that withdraws permission to change use from Class A4 to Class A3. Compensation rules relating to Article 4 directions are being amended to reflect the new Class AA right.

## Twelve new enterprise zones go live

Announced in the Autumn Statement 2015, 12 new Enterprise Zones have 'gone live'. The new Enterprise Zones bring the total to 48 in England and cover:

- Northern Powerhouse: M62 Corridor (Leeds City Region LEP); North East Round 2 (North East LEP); York Central (York, North Yorkshire and East Riding LEP);
- Midlands Engine: Brierley Hill (DY5 - Dudley's Business and Innovation Enterprise Zone); Loughborough and Leicester (Leicester and Leicestershire LEP);
- South West; Cornwall Marine Hub (Cornwall and Isles of Scilly LEP); Dorset (Dorset LEP); Heart of the South West (Heart of the South West LEP); and
- South East and East: Enterprise M3 (Enterprise M3 LEP); Enviro-Tech (Hertfordshire LEP); Newhaven (Coast to Capital LEP); North Kent Enterprise Zone (South East LEP)

In addition, 2 existing Enterprise Zones - the West of England LEP (Local Enterprise Partnership) and the New Anglia LEP - have expanded. ■