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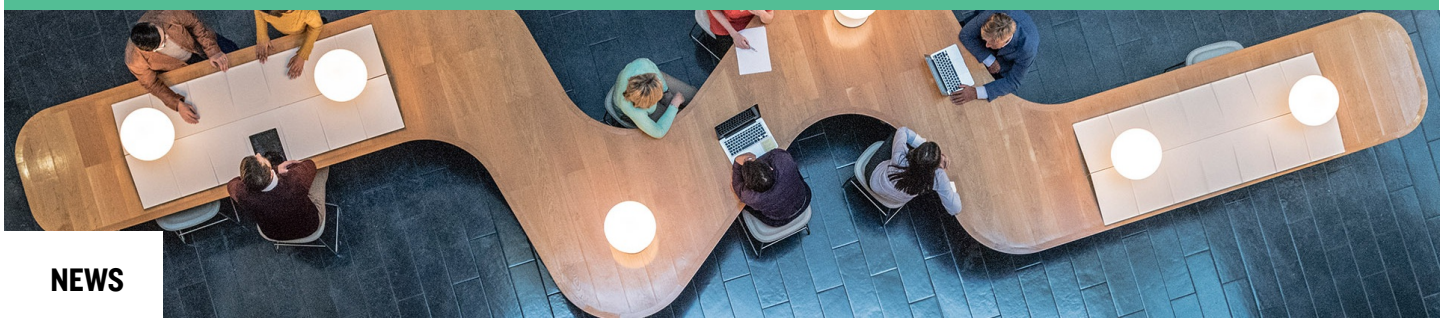

NEWS

Commercial planning news, March 2018

01 Mar 2018

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Headline news

PPG updates - local plans and more

Several paragraphs of the national Planning Practice Guidance have been revised and other new ones have been added.

The updates and new paragraphs primarily reflect changes to legislation and provide points of clarification regarding: permitted development; local and neighbourhood plan-making and modification procedures; CIL

reliefs; and planning application fees. They also cover: short term lets outside London; pre-application advice services, fee structures and outputs; application fee categories; when planning permission is required for listed buildings; and enforcement (with reference to procedures and deliberate concealment).

There is also updated guidance on building works associated with change of use from agricultural to residential, and whether or not planning permission is required for certain farm works.

The new CIL guidance is for the most part about self-build and residential extension exemptions.

Local plans' guidance has been revised to reflect Regulation 22(2) of the Town and Country Planning (Local Planning) (England) Regulations 2012 being revoked by the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017 on 15 January 2018. The changes relate to local planning authorities no longer as a matter of law having to submit local plans and accompanying documents both electronically and in paper form but the guidance does acknowledge:

'On an individual basis it may be necessary for local planning authorities to provide the Planning Inspectorate or Inspector both electronic and paper copies of some key documents on request.'

National Planning Practice Guidance

National Planning Practice Guidance, Paragraph: 021 Reference ID: 12-021-20180201

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Quote of the month

In so far as we turn increasingly to the rest of the world – as we are – then we will be able to do our own thing [...] We can simplify planning, and speed up public procurement, and perhaps we would then be faster in building the homes young people need; and we might decide that it was indeed absolutely necessary for every environmental impact assessment to monitor two life cycles of the snail and build special swimming pools for newts – not all of which they use – but it would at least be our decision.

Foreign Secretary Boris Johnson's Brexit speech, 14 February 2018

Local authorities can now dispose of land with planning permissions granted to themselves

The Town and Country Planning General (Amendment) (England) Regulations 2018 came into force on 23 February 2018. They arise from the housing White Paper consultation on a proposal (question 5) to allow all local authorities to dispose of land with the benefit of planning permissions they have granted themselves. The February 2018 Government response to this element of the White Paper consultation explains the 'considerable support' for the proposal, given for the following reasons:

- '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'

The Explanatory Note in the amendment Regulations provides more detail on their effect. It explains that generally, planning permission runs with the land but regulation 9 of the Town and Country Planning General Regulations 1992 (for England and Wales) makes an exception where an interested planning authority grants itself planning permission for its own development. Here, the permission only enures for the benefit of the authority (or, in the case of a joint development, the authority and the other person specified in the application for planning permission as the joint developer). For England, regulations 9A and 9AA of the 1992 Regulations already disapplied this exception in the case of some categories of authority (unitary authorities and urban development corporations); the new amendment Regulations remove the exception altogether for England.

As set out in the Explanatory Memorandum accompanying the amendment Regulations, they now allow planning permission granted by all interested planning authorities in England – including two-tier authorities - to themselves to run with the land so that, for example, if an authority later sells the land before developing it under the permission, the purchaser will be able to do so instead.

The change will not affect planning permissions granted before the amendment Regulations came into force.

MHCLG, Local authority development – effect of planning permission, Government response to consultation

Town and Country Planning General (Amendment) (England) Regulations 2018

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Draft NPPF revision details emerge on upward extensions

On 5 February, Housing Secretary Sajid Javid made a House of Commons Written Ministerial Statement on 'upwards extensions: new homes', to the effect that ministers are to support upward extensions of existing buildings in cities nationally through changes to the NPPF, rather than new permitted development rights as previously consulted on for London.

The Statement followed a MHCLG announcement the day before, that 'confirmed government backing to create a new generation of town houses in cities like London and Manchester to ease pressure on valuable open spaces and help growing families'.

In the House of Commons Statement, the Housing Secretary said:

'Planning policies and decisions should respond positively to suitable opportunities to use the airspace above existing residential and commercial premises for new homes. They should allow residential and commercial premises to extend upwards, where such extensions would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, are well-designed—including complying with any

local design policies and standards—respect the privacy of neighbours and can maintain safe access and egress for occupiers.

The Government will be consulting on changes to the national planning policy framework, including changes to incorporate building up to ensure effective use of land for current and future homeowners. Appropriate guidance will be produced in due course.'

Written Ministerial Statement, 'Upwards extensions: new homes', 5 February 2018

MHCLG, Government ushers in a new generation of town houses

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Heritage at Risk study launched by Historic England

Historic England has launched a new study prepared jointly with Lichfields and U+I which illustrates the economic, environmental and social returns offered by Heritage at Risk sites in London.

Ten case studies show that 'investment into Heritage at Risk can deliver an unrivalled richness of regeneration outcome', from economic and employment outputs to community education and engagement. A considerable overlap between Heritage at Risk and areas of greatest deprivation in London (and England), highlights how investment into Heritage at Risk can pay a social dividend.

Historic England, Risky Business? Investing in Heritage at Risk, February 2018

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Listed Buildings and Curtilage Advice Note

Historic England has published an advice note on assessing the curtilage of listed buildings and provides hypothetical examples.

Historic England, Listed Buildings and Curtilage, February 2018

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The Lichfields perspective

While we wait for HCLG's consultation on proposed revisions to the NPPF– currently expected to launch on 5 March – ministers and the Department have given various indications to the development sector of what the changes will include. As yet though, there are only very sketchy details of what the Government will be consulting on by way of CIL reform, and when. The uncertainty being created in the sector is palpable, especially when it is not known when and if the NPPF and CIL-related changes to national guidance in the PPG will be consulted on too, or simply published in the summer alongside the finalised Framework.

Margaret Baddeley, Planning Director

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Registered office:
14 Regent's Wharf
All Saints Street
London N1 9RL