



NEWS

England planning news, September 2018

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Contents

Headline news

- 01 [New social housing green paper makes planning regime-related design proposals](#)

Law

- 02 [In the courts](#)

Policy

- 03 [Proposed policy](#)
- 04 [Other news](#)
- 05 [Government reports](#)

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Headline news

New social housing green paper makes planning regime-related design proposals

On 14 August, the Ministry for Housing, Communities and Local Government (MHCLG) published the long-awaited social housing green paper entitled, 'A new deal for social housing'.

The development sector is urged in the Green Paper to 'pull together and radically increase the number of homes built every year'. The Government's vision therefore includes:

- helping local authorities to build, by allowing them to borrow, possibly introducing new flexibilities for spending Right to Buy receipts, and by not requiring a payment for vacant, higher value council homes. These and other possible measures exemplify how the Government is seeking to address local authorities not building enough Right to Buy replacements to match sales - nationally, each home sold is not being replaced on a one-for-one basis;
- achieving additional supply through community land trusts and local housing companies;
- investigating how to provide longer term certainty to help housing associations build more; and
- helping those in affordable home ownership schemes to progress more easily to owning outright.

While the Green Paper's focus is not specifically on planning, one of its five principles (that of 'tackling stigma and celebrating thriving communities') refers directly to promoting good design. It is stated in the context of this principle that the Government wants 'to ensure that good design is applied regardless of tenure'. The revised National Planning Policy Framework (NPPF) is highlighted as showing how the Government is 'committed to ensuring the planning system can deliver high quality buildings and places'. New national Planning Practice Guidance (PPG) is announced as due later this year - it will apply NPPF policies for plan-making and decision-taking specifically to social housing, particularly regarding:

- Secured by Design;
- Encouraging healthy and active communities;
- Designing new affordable homes to the same quality as other

- tenures, and to be well-integrated within developments; and
- Reflecting changing needs (such as an ageing population, or higher density family housing).

The role - and extra funding (announced in 2017) - of neighbourhood planning in helping communities to develop the skills for effective participation is also highlighted.

Two key planning-related questions are then posed in the consultation:

'43. What other ways can planning guidance support good design in the social sector?

44. How can we encourage social housing residents to be involved in the planning and design of new developments?'

[MHCLG, James Brokenshire launches a new deal for social housing residents](#)

[MHCLG, Social housing green paper: a 'new deal' for social housing](#)

[Return to contents](#)

Quote of the month



Our green paper offers a landmark opportunity for major reform to improve fairness, quality and safety for residents living in social housing across the country. Regardless of whether you own your home or rent, residents deserve security, dignity and the opportunities to build a better life.

Secretary of State for Communities James Brokenshire, launching the social housing green paper, 'A new deal for social housing', 14 August 2018

In the courts

How should five-year housing land supply shortfall be defined?

In *Hallam Land Management Ltd. v Secretary of State for Communities and Local Government and Eastleigh Borough Council*, heard in the Court of Appeal, Lindblom LJ stated the central question as being:

'In deciding an appeal against the refusal of planning permission for housing development, how far does the decision-maker have to go in calculating the extent of any shortfall in the five-year supply of housing land?'

The Secretary of State (SoS) for Communities and Local Government (CLG) had, in line with his Inspector in a decision letter dated 9 November 2016, dismissed a s78 appeal for various types of new homes in Hamble. The decision had been challenged unsuccessfully in the High Court by the appellant, where the judge had rejected all four of the appellant's grounds of appeal, including two that went to the SoS' failure to ascertain the extent of the shortfall against the five-year housing land supply, and to provide adequate reasons for his relevant conclusions. The other two grounds asserted that his decision was inconsistent with conclusions on housing land supply and policy weight relating to another proposed development (at Boorley Green).

With different housing land supply figures being put forward by the various appeal parties at different times, it was not clear from the SoS' decision whether he had fixed on a precise figure for the housing land supply. Nor was it clear whether he had reached any concluded view on the scale of the 'acknowledged shortfall' – he referred to 'the limited shortfall in housing land supply', while the Inspector had written of a 'material shortfall'. This approach did not err in law of itself, as the Communities Secretary was entitled to conclude that no more precision was required in the knowledge that the level of housing land supply fell within a range below five years. But other inspectors' conclusions on housing land supply in two very recent decisions (for a site at Bubb Lane, Hedge End and land at Botley Road, West End) – and their consequences for the weight to be given to local plan policies – 'clearly were material considerations in this appeal'. Both of these decisions had characterised the shortfall as 'significant', more in line

with 'material', than 'limited'.

Lindblom LJ concluded:

'[The] SoS did not come to grips with the inspectors' conclusions on housing land supply in those two very recent appeal decisions.'

The SoS will now re-determine the s78 appeal.

Hallam Land Management Ltd. C Secretary of State for Communities and Local Government and Eastleigh Borough Council

[Return to contents](#)

Policy

Proposed policy

Voluntary Right to Buy pilot for Midlands' housing associations

A Midlands Voluntary Right to Buy Pilot has now been launched, alongside the social housing Green Paper's proposals for measures to make it easier for housing association residents to progress to home ownership.

The Government is working with the National Housing Federation and providing £200 million of funding (announced in the 2017 Autumn Budget) to finance sale discounts. Housing associations will use the receipts from the sales to fund replacement homes. A ballot will be used to select successful tenants, who will still then have to meet eligibility criteria; a portable discount is also being tested.

MHCLG, James Brokenshire launches £200 million pilot to boost social home ownership

Homes England, Capital funding guide, 13. Voluntary Right to Buy Pilot

[Return to contents](#)

Consultations on further social housing reforms

Also alongside the social housing green paper, two related consultations have been launched, one seeking views on reforming the rules for the use of sales receipts from the Government's Right to Buy programme, and the other a review of the regulatory framework for

social housing.

[MHCLG, Use of receipts from Right to Buy sales Consultation](#)

[MHCLG, Review of Social Housing Regulation Call for Evidence](#)

[Return to contents](#)

Other news

Planning Portal to charge for application submissions

From 10 September, the Planning Portal will charge £20 for every application submission, regardless of its type.

In addition, application fees will be paid to the Planning Portal and not to the local planning authority (LPA). As soon as the fee payment is received for an application submitted via the Portal, both will be transferred to the LPA so that the validation process can begin. If an application fee is paid by cheque, this has to also be sent to the Planning Portal where it will take 7 working days to clear.

[Planning Portal, Launch date confirmed for new financial transaction service in England](#)

[Planning Portal, New payment service for IApp in England](#)

[Return to contents](#)

New programme for funding garden communities

On 15 August, Communities Secretary James Brokenshire announced a new programme for assisting with progressing garden communities.

Parties having the support of local authorities for 'new garden communities at scale' can apply for a place on the Programme.

According to the accompanying Prospectus, proposals for new Garden Towns (with more than 10,000 homes) will be prioritised but MHCLG will also consider proposals for Garden Villages (having 1,500-10,000 homes) 'which are particularly strong in other aspects'.

Winning bids can choose to receive/ benefit from: resource funding; delivery advice (e.g. on creating development corporations) and support; cross-government brokerage; and peer learning and networking opportunities.

The period for submitting proposals ends on 9 November.

MHCLG, James Brokenshire plans increase in garden towns

MHCLG, Garden Communities: prospectus

[Return to contents](#)

Listing entries reach 400,000 following 4 new listings

The National Heritage list for England reached 400,000 listings on 22 August, with the Grade II listing of four new buildings (the Howitt Building, Lenton Boulevard, Nottingham; the Elmdon terminal building, Birmingham Airport; Theatre Royal, Royal Parade, Plymouth; and the Birches 'Squatter's cottage', Cleeton St Mary, Shropshire).

Coinciding with the Great Exhibition of the North, and following advice from Historic England, the Tyne Bridge has also been upgraded to Grade II* by the Department for Digital, Culture, Media and Sport. On its completion in 1928, it was the largest single span bridge in Britain.

Historic England, Raleigh Bicycle Company Head Office listed as National Heritage List reaches 400,000 entries

Historic England, Tyne Bridge listed status upgraded during Great Exhibition of the North to celebrate its importance

[Return to contents](#)

Call for large housing sites along Oxford-Cambridge corridor

A letter dated 26 July from Housing Minister, Kit Malthouse was published in late August that had been addressed to all local authorities in the Oxford – Milton Keynes – Cambridge corridor, inviting them to 'bring forward ambitious proposals for transformational housing growth, including new settlements'.

Proposals have to be submitted by 14 September. They should be led by the local authority concerned, working closely with partners, and consider a range of factors, including: economic rationale; connections to existing and planned transport networks; geography and patterns of land ownership; scale and pace of delivery; and how proposals will be funded.

MHCLG, Delivering ambitious housing growth in the Cambridge–Milton Keynes–Oxford Corridor

[Return to contents](#)

Government reports

Review of application and effectiveness of planning policy for sustainable drainage systems

On 23 August, MHCLG published a review that examines:

- how national planning policies for sustainable drainage systems (SuDS) are reflected in local plans; and
- the uptake of SuDS across a range of housing and commercial developments in England.

The review was undertaken during 2016 and 2017, with the support of Defra and the Environment Agency.

According to the review, 80% of adopted local plans contain policies that reflect requirements in the 2012 NPPF for SuDS to be prioritised in areas with a high risk of flooding.

Although 87% of the sample of approved planning applications explicitly stated that SuDS would be part of the proposed development, for 70% of applications it was not clear who would be responsible for their maintenance.

The review states that this autumn, the Government will update the PPG on SuDS to reflect the changes made to the 2012 NPPF in the 2018 version of the Framework.

MHCLG, [A review of the application and effectiveness of planning policy for sustainable drainage systems](#)

[Return to contents](#)

Potential for applying 'social value' to planning decision-making to be explored by Government

In its new report, 'Civil Society Strategy: building a future that works for everyone' that was published on 9 August, HM Government defines the term 'civil society' as referring to 'all individuals and organisations, when undertaking activities with the primary purpose of delivering social value, independent of state control'.

While the Localism Act 2011 has already 'created new rights for communities, giving them an opportunity to take into local ownership community assets, shape planning and development in their area', the Strategy states that with the intention of improving the use of the Public Services (Social Value) Act 2012, the Government will explore whether 'social value' principles should be applied to specified areas of public decision-making that include planning.

The Strategy also states that the Government aims to strengthen the right for communities to bid for the ownership of local assets and will be issuing revised guidance on the issue.

Elsewhere, the document confirms that resident involvement has been lacking in many regeneration projects to date and promises to give communities a greater say in the future.

Secretary of State for Business, Energy and Industrial Strategy Greg Clark said:

'Growing the economy and strong communities are mutually reinforcing and I very much welcome the steps which this new Civil Society Strategy takes to build on the Industrial Strategy approach, particularly to involve communities more strongly in local planning for economic growth, prosperity and employment.'

HM Government, 'Civil Society Strategy: building a future that works for everyone'

[Return to contents](#)

House of Commons Library papers

Tackling the under-supply of housing in England

On 9 August, the House of Commons Library published a briefing paper that considers key UK housing supply trends. It then focuses on some of the key barriers and potential solutions to increasing supply in England, in particular summarising proposals set out in the February 2017 housing White Paper and other policy developments.

House of Commons Library Briefing Paper, Tackling the under-supply of housing in England

[Return to contents](#)

The Lichfields perspective



In referring to the new NPPF, 'A new deal for social housing' makes it clear that the planning system can deliver high quality buildings and places. The Green Paper explains how for social housing, new PPG will be stressing Secured by Design, encouraging healthy and active communities and design reflecting people's changing needs. These elements of good quality design are however equally important across all tenures, as a matter of principle.

What may have more implications for the development industry however is how proposed national guidance on high quality design being 'the same' as for other tenures - and on new affordable homes being 'well-integrated within developments' - will be interpreted. Proposing 'tenure-blind' development, or separate buildings for management reasons, may no longer be enough.

Margaret Baddeley, Planning Director

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