REPORT FOR DECISION

Bury COUNCIL

Agenda Item	7

DECISION OF:	**PLANNING CONTROL COMMITTEE**
DATE:	**28th OCTOBER 2014**
SUBJECT:	**DEVELOPMENT MANAGEMENT PERFORMANCE**
REPORT FROM:	**DEVELOPMENT MANAGER**
CONTACT OFFICER:	**JOHN CUMMINS**
TYPE OF DECISION:	**COUNCIL**
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	The report provides a brief analysis of performance within Development Management Team for the half year 2014/15 with comparisons from previous years and an overview of changes in the development management regime.
OPTIONS & RECOMMENDED OPTION	The Committee is recommended to the note the report and appendix.

IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Executive Director of Resources to advise regarding risk management N/A
Statement by Executive Director of Resources:	N/A
Equality/Diversity implications:	No (Each application is considered having regards to these requirements)
Considered by Monitoring Officer:	No Not required

Wards Affected:	All
Scrutiny Interest:	No

TRACKING/PROCESS **DIRECTOR:**

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

1.1 The performance of the Council in terms of the Development Management function is subject to considerable scrutiny, and quarterly returns have to be made to the DCLG. These returns are called PS1 and PS2 and they measure the speed of decision making for 3 categories of application – Major, Minor and Other (which includes house extensions), and within these classes, the number of applications processed, the number of applications 'on-hand', the % delegated to officers for decision. In addition for Minerals and Waste Applications CPS1 and CPS2 returns have to be made.

1.2 Since June this year the format of the PS1 and PS2 returns has been amended to include the new 'prior-approvals' introduced by the Government. These include larger homes extensions, rights to convert various types of property to residential and flexibility within the commercial/retail use classes.

1.3 This is part of a stated aim of the Government to introduce a 3 tier planning regime with Planning Applications at the top which have full scrutiny, Prior Approvals in the middle where there is a 'light touch' approach and the planning authority only have limited involvement when 'neighbours' object and Permitted Development at the bottom i.e. you can build it without permission.

1.4 Focus has continued on the speed of decision making on Large-scale Major Developments (PS returns) which covers those of over 200 residential units or 1,000 sq m of industrial, commercial or retail floor space (and equivalent area/floor space) and sites (CPS returns) which are Major waste and or minerals applications. Government introduced new measures which place the LPA in 'special measures' and allow applicants

to ask the Secretary of State, rather than the LPA, to determine planning applications if the LPA has not determined over 40% of these type of application in the previous year in time. Designation takes place separately for PS type returns and CPS type returns.

1.5 The speed of decision making only measures the quantative aspects of the service and is not necessarily a true measure of the quality of the service. The Government is also introducing a new measure based on the number of applications that are granted approval at Appeal, thereby overturning the LPA's decisions as a qualitive assessment of the LPA's performance. If more than 30% of Large-scale Major Developments are overturned, the Secretary of State (SoS) will place the LPA in 'special measures' and the applicant will, in future, be able to ask the SoS to determine this type of application

1.6 Currently our performance for 2012/14 (July to June) which will be used for placing the next designations is as below:

PS returns % of Large scale Major Developments approved in 13 weeks – < 40%	CPS returns % of Large scale Major Sites approved in 13 weeks – < 40%	% of Large scale Major Developments overturned at Appeal - > 30%	% of Large scale Major Developments overturned at Appeal - > 30%
90.8%	100%	0%	0%

1.7 Whilst we are currently not at threat from these measures applying, the relatively small numbers of this type of application that we process, (65 in the above reporting period for PS returns and 3 for CPS returns), means that these percentages can change easily and thereby put the LPA at risk of special measures.

1.8 The returns for the speed of decision making for PS returns is particularly notable as it places us at the top of the league table for Greater Manchester Authorities and 2nd of all Metropolitan authorities with only Coventry being quicker.

1.9 The importance of a speedy and efficient service is however also linked to good standards of customer service and applicants should expect a reasonably prompt determination of their planning application. In the year to date, no complaints have been received about the service via the Council's Customer Relations Management (CRM) team with regard to the slow speed of processing applications by agents and applicants, and whilst we do have complaints that are handled through the Council's formal Complaints procedures from time to time, none have these have resulted in any ombudsman cases finding fault in any of the department's systems or procedures.

2.0 Application Caseload and Fees

2.1 The situation in Bury has continued to be quite buoyant in terms of numbers of applications and fees with a similar number of application and a slight increase in fees. However, at this stage of the year it is difficult to forecast the full year out comes, especially with the introduction of the new 'prior approvals' which are growing in terms of numbers.

2.2 Looking at the first quarter of 2014/15 national returns we had 16 of this type of application which resulted in costs to the department, but no fee. The loss in fee income amounted to £11,008 in this quarter. This is very concerning as this would equate to £44,032 in the full year and at a time when there are budget pressures, a very unwelcome development.

2.3 A full year report will be included in the Annual Performance report for information.

2.4 The Development Management Team reviewed the Pre-Application Service and has now introduced Planning Performance Agreements to facilitate the process of planning application when they are submitted. Both of these now bring in additional fees to the team and in the first half year, this has amounted to £25,482.

2.5 The services have been welcomed by both small and large developers and we are looking at ways to improve the offer to them, which may result in increased income from January 2015.

4.0 Service changes.

4.1 As with previous years it should be no surprise that the first half year has seen a number of developments and changes both internally and externally.

4.2 Externally:

- Additional Permitted Development and Prior Notifications have been introduced which have complicated accepted procedures and this is increasing workloads for no increase/reduction in fees. (see above)
- Government has confirmed its intent to have a '3 Tier' planning regime which will mean lower fees and no reduction in workload.
- Performance targets for the speed and quality of decisions on Major Application has been increased.
- PAS has been working with LPA's to developed new best practice for Pre-Applications and we are working to introduce this into our team.
- PAS have also developed a 'Planning Quality Framework' to assess how effective a planning service we have and the first full report on that will be presented at the year end. (See PowerPoint presentation attached)

4.3 Internally:

- Training of PCC members has continued to be held internally with support from appropriate other professional groups and it is intended that sessions continue to be arranged before the monthly PCCs. Members are encouraged to come forward with areas of planning work

that they specifically feel would benefit from being discussed at training sessions.

- A Peer Review is to take place by PAS of the workings of the PCC to make sure we are 'The Best PCC in the World'.
- A review of the structure is taking place to ensure it has sufficient resources with the recent VER and future VER's and this will see changes in reporting as well as the introduction of new post/s to the team.

5.0 Conclusion

5.1 Performance of decision making is a major factor in the external view of the service and good performance is key to both customer care standards, recognition from the DCLG and other inspection regimes.

5.2 The current performance levels have continued to be exceptional, particularly in terms f the performance on Major Applications and reflects well on all staff involved. These levels have been maintained by a sustained focus on performance issues by all staff and in the face of significant planning reforms sought by Government through continued changes in legislation, which appears to be taking place on almost a daily basis.

5.3 There continues to be a range of work in the section which is over and above the actual applications themselves that are processed. The future changes to the planning process will have particular challenges for 2014/15 and for the foreseeable future but we have a stable and experienced team that will meet the challenge.

List of Background Papers:- None

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Planning Reform Proposals

Standard Note: SN/SC/6418

Last updated: 16 September 2014

Author: Louise Smith

Section Science and Environment Section

Since the Coalition Agreement, major reforms to the planning system have taken place with the introduction of the *Localism Act 2011* and the *National Planning Policy Framework*.

The Government has stressed that the planning system should work proactively to support economic growth and it is still concerned that various aspects of the planning system are burdened by "unnecessary bureaucracy that can hinder sustainable growth." A number of reforms were made in the *Growth and Infrastructure Act 2013* aimed at speeding up the planning system.

Outside of this Act a number of other announcements on planning reform have also been made, most recently in the Government's *National Infrastructure Plan 2013*, *Autumn Statement 2013*, *Budget 2014*, *Queen's Speech 2014, Infrastructure Bill 2014-15, Technical Consultation on Planning July 2014*, which together include:

- reforming the Nationally Significant Infrastructure Planning Regime;
- addressing delays associated with the discharge of planning conditions;
- consulting on introducing a statutory requirement to have a local plan in place;
- new support for new garden cities;
- allowing further changes of use to residential use without requiring planning permission; and
- reforming the system of permitted development rights.

This note sets out more information about the key planning reform announcements and an overview the proposals. Most of the proposals apply to England only. For detailed information about the planning reforms in the *Infrastructure Bill 2014-15* see Library standard note, *Infrastructure Bill: Planning Provisions*.

For information about proposals to stimulate housing supply see Library standard note, *Stimulating housing supply*.

Contents

1 Key planning reform announcements

The Coalition Agreement in 2010 set out the Government’s ambitions for a “radical reform” of the planning system. Since this agreement, major reforms have taken place with the introduction of the *Localism Act 2011* and the *National Planning Policy Framework*, which was effective from April 2012.

The Government has stressed that the planning system should work proactively to support economic growth and it is still concerned that various aspects of the planning system are

burdened by "unnecessary bureaucracy that can hinder sustainable growth."[1] Key announcements on planning reforms not yet implemented have been made in:

- *Communities and Local Government press release 3 July 2012*[2]. The Government announced a package of measures which included: reviewing the supporting planning guidance which accompanied the old planning policy framework and speeding up the process for determining planning appeals.

- Communities and Local Government press release 6 June 2013, *Onshore wind: communities to have a greater say and increased benefits*.

- Communities and Local Government press release 6 August 2013, *Extension of permitted development rights will ensure better use is made of existing buildings*. The Government announced new permitted development which would allow agricultural buildings and retail units to be converted into homes without needing planning permission, in certain circumstances.

- The Government's *National Infrastructure Plan 2013*, 4 December 2013, which announced: a review of the nationally significant infrastructure planning regime; a consultation on whether to introduce a statutory requirement for local planning authorities to have a local plan in place; reducing the number of planning application where statutory consultation is required; and reforming the system of discharging planning conditions.

- *HM Treasury Autumn Statement 2013*, 5 December 2013 which set out proposals to consult on increasing the threshold for designation for local planning authorities of having a record of very poor performance from 30% to 40% of decisions made on time and on introducing a new 10 unit threshold for when section 106 affordable housing contributions can be requested.

- Communities and Local Government, *Supporting High Streets and Town Centres Background Note*, 6 December 2013 which announced a new requirement for local authorities to review retail land in their areas and proposed new permitted development rights to change vacant retail into leisure uses.

- *Budget 2014*, 19 March 2014, which announced changes to the permitted development rights regime and support for a new garden city at Ebbsfleet.

- Government's *Technical Consultation on Planning*, July 2014. Proposes a number of changes to: streamline the neighbourhood planning process; introduce new permitted development rights and changes of use, reduce when statutory consultation is required in certain circumstances; raise environmental impact screening thresholds so that fewer projects in certain areas need to be screened; and make changes to the nationally significant infrastructure planning regime.

- Government's, *Consultation: planning and travellers*, September 2014 which proposes to amend the definition of a "traveller" for planning purposes and to change policy to address the problem of unauthorised occupation of land.

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1 HC Deb 6 Sep 2012 c31WS

2 Department for Communities and Local Government, *Next steps to improve the planning system and support sustainable development*, 3 July 2012

The Queen's Speech 2014 Background Briefing Notes announced that an Infrastructure Bill would be introduced in the 2014-15 session. This Bill has now been published. Its planning measures would allow the panel of examining inspectors on an application for a Development Consent Order for a national infrastructure project to be appointed more quickly and would simplify the process for modifying Development Consent Orders. The Bill would also allow certain types of planning conditions to be discharged upon application if a local planning authority has not notified the developer of their decision within a prescribed time period. For more detailed information about these measures see Library standard note, *Infrastructure Bill: Planning Provisions*.

2 The Growth and Infrastructure Act 2013

The Library Research Paper, *Growth and Infrastructure Bill*, Research Paper 12/61, 25 October 2012 sets out in detail the reforms to planning law made by the now Growth and Infrastructure Act 2013 and so are not reproduced here. Since this paper was published, however, a number of Government consultations, responses and further guidance have been published on matters related to the Act and includes:

- *Planning performance and the planning guarantee: consultation*, November 2012
- *Planning performance and the planning guarantee: government response to consultation*, 4 June 2013
- *Improving planning performance: criteria for designation*, 4 June 2013
- *Section 106 affordable housing requirements: review and appeal*, 26 April 2013
- *Nationally significant infrastructure planning: extending the regime to business and commercial projects – consultation*, November 2012
- *Major infrastructure planning: extending the regime to business and commercial projects: Summary of responses and government response*, 21 June 2013
- *Interim Guidance to Commons Registration Authorities on Section 15C of the Commons Act 2006: (Exclusion of the right to apply under section 15(1) of the Commons Act 2006 to register new town or village greens)*, April 2013
- *Town and village greens: how to register*, May 2013

3 Proposed reforms

The reforms described in the sections below are those not related to the *Growth and Infrastructure Act 2013,* but which stem from other Government announcements.

3.1 Permitted development rights

Permitted development rights are basically a right to make certain changes to a building without the need to apply for planning permission. These derive from a general planning permission granted from Parliament in The *Town and Country Planning (General Permitted Development) Order 1995* (SI 1995/418) (the 1995 Order), rather than from permission granted by the local planning authority. Schedule 2 of the Order sets out the scope of permitted development rights. For more information on the current permitted development rights for home extensions see the Government's planning portal webpage on extensions.

In some circumstances local planning authorities can suspend permitted development rights in their area with an "article 4 direction". For more information this and permitted development rights see Library standard note, *Permitted Development Rights*, SN/SC/485.

In *Budget 2014* it was announced that the Government would review the General Permitted Development Order:

> the government will review the General Permitted Development Order. The refreshed approach is based on a three-tier system to decide the appropriate level of permission, using permitted development rights for small-scale changes, prior approval rights for development requiring consideration of specific issues, and planning permission for the largest scale development.[3]

Change of use of existing buildings

The *Town and Country Planning (Use Classes) Order 1987* puts uses of land and buildings into various categories known as "Use Classes". The categories give an indication of the types of use which may fall within each use class. It is only a general guide and it is for local planning authorities to determine, in the first instance, depending on the individual circumstances of each case, which class a particular use falls into. Permitted development rights allow for change of use between certain classes without the need for full planning permission.

In the Budget 2014 the Government also said that it will consult on new permitted development rights for change of use to residential use and to allow businesses to expand certain onsite facilities. The Budget also said Government would consider creating a "much wider 'retail' use class, excluding betting shops and payday loan shops".[4] A Written Ministerial Statement on 30 April 2014 said that the Government would consult in "summer 2014" on creating a new use class for betting shops so that planning permission would be required before a betting shops could be converted from a former bank, building society, restaurant or pub.[5]

In the Government's *Supporting High Streets and Town Centres Background Note*, 6 December 2013, it was set out that there would be a consultation on new permitted development rights to change retail use into leisure use:

> we will consult on relaxations for change use from retail use (A1) to restaurant use (A3) and from retail use (A1) assembly and leisure uses (D2) such as cinemas, gyms, skating rinks and swimming baths.
>
> We will also consult on creating a national planning permission to allow the installation of mezzanine floors in retail premises where it would support the town centre.
>
> These measures are targeted to support the diversification and vitality of town centres. They recognised the Portas Review recommendation to make it easier to change surplus retail space to leisure uses in the D2 use class.

The Government's July 2014 Technical Consultation of Planning contained proposals to introduce a number of these new permitted development rights to allow change of use. These proposals include:

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3 HM Treasury, *Budget 2014*, 19 March 2014, para 1.147
4 HM Treasury, *Budget 2014*, 19 March 2014, para 2.249
5 HC Deb 30 April 2014 c53WS

- allowing light industrial, storage and distribution buildings to change to residential use;
- allowing some sui generis uses (i.e. uses of buildings not falling into a particular use class), such as launderettes, amusement arcades, casinos and nightclubs to change to residential use;
- introducing a new permitted development right for the change of use from existing A1 and A2 use classes, and some sui generis uses, in use at the time of the Autumn Statement 2013 announcement, to restaurants and cafés (A3); and
- introducing a new permitted development right is introduced to enable the change of use from A1, A2 and some sui generis uses, which were in that use at the time of the Autumn Statement 2013, to assembly and leisure (D2) use.

The Government is also consulting on putting some of its currents temporary permitted development rights on a permanent basis. This would include:

- allowing change of use from office to residential use (subject to certain restrictions);
- putting on a permanent basis the temporary increase in size limits allowed for single storey rear extensions on dwelling houses; and
- putting on a permanent basis the temporary increase in size limits allowed for extensions to shops, financial and professional services, offices, warehouses and industrial premises.

The Technical Consultation also proposes changes to the A1 (shops) and A2 (financial institutions) use classes, to create a larger, renamed A1 class which would incorporate a lot of what are currently A2 uses. This is in part aimed at solving the issue of betting shops and payday loan shops being able to open without requiring planning permission (and which would remain in use class A2):

> 2.57 We propose that the retail offer is strengthened by incorporating into a revised wider A1 use class the majority of financial and professional services currently found in A2. It is proposed that the Use Class Order will be revised in respect of use classes A1 and A2, and the names of both uses classes revised to better reflect their new scope.
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> 2.58 This will expand the flexibility for businesses to move between premises such as a shop to what would have been an A2 use such as an estate agent or employment agency without the need for a planning application. This will support local communities and growth by enabling premises to change use more quickly in response to market changes, reducing the numbers of empty premises that can contribute to blight in an area. Betting shops and pay day loan shops will not form part of the wider A1 retail use class, but will remain within the A2 use class.

The Government is also proposing to introduce new permitted development rights to make it easier for retailers to introduce “click and collect” services and to adapt to online shopping by:

- allowing the erection of small, ancillary buildings which could facilitate ‘click and collect’ services; and
- making it easier for retailers to increase their back of house loading bay capacity, allowing them to store more goods for home delivery and ‘click and collect’.

A new permitted development right to make commercial filming easier has also been proposed:

> 2.83 We propose to introduce a new permitted development right to allow for commercial filming and the associated physical development on location. The product of commercial filming must be the sole purpose of the activity and not ancillary to other activities. The new permitted development right will grant permission for:
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> - location filming inside existing buildings and outside on single sites of up to one hectare, which can be split between buildings and land, and the construction and removal of associated sets. The right will be for a maximum period of nine months in any rolling 27 month period and will include a prior approval.

New permitted development rights are also proposed in a number of separate areas, including:

- a new permitted development right to support the installation of photovoltaic panels (solar PV) on non-domestic buildings with a capacity up to one megawatt (20 times the current capacity) without a planning application to the local authority;
- a new permitted development right "for those waste management facilities currently sui generis, to enable the carrying out of operations for the replacement of any plant or machinery and buildings on land within the curtilage of a waste management facility and which is ancillary to the main waste management operation"[6];
- a permitted development right equivalent to that for water undertakers for sewerage undertakers. This would allow sewerage undertakers to carry out the installation of a pumping station, valve house, control panel or switchgear house into a sewerage system.

More information about use classes and other recent changes made is set out in Library Standard Note *Planning Use Class Orders*, SN/SC/01301. More information about use classes is also available on the Government's Planning Portal website.

Short term lettings in London

Under the section 25 of the *Greater London Council (General Powers) Act 1973*, as amended, London councils have powers to control short-term letting, defined as temporary sleeping accommodation occupied by the same person for less than 90 consecutive nights. This means that if a person were to rent a property in London for less than 90 consecutive nights it would amount to a material change of use that would require a planning application to be submitted. This provision applies in the Greater London area only and not to the rest of the country.

In a discussion document from February 2014, *Review of Property Conditions in the Private Rented Sector*, the Government asked whether this provision should be reviewed or updated. In a press release on 9 June 2014, Secretary of State for Communities and Local Government, Eric Pickles announced that he would add an amendment to the *Deregulation Bill 2013-14 to 2014-15* to give "Londoners the freedom to rent out their homes on a temporary basis, such when they are on holiday, without having to deal with unnecessary red tape and bureaucracy of paying of a council permit."[7] The press release made clear that the

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6 HM Government, *Technical Consultation on Planning*, July 2014, para 2.96

7 HM Government press release, *End to outdated laws will allow Londoners to let homes for extra cash*, 9 June 2014

measure would not allow homes to be turned into hotels or hostels (this would still require "change of use" planning permission), and that measures would be put in place to prevent the permanent loss of residential accommodation. This amendment has now been added to the Bill and is clause 34 in *HL Bill 33 2014-15*. Progress of this Bill can be followed on the Parliament website.

3.2 Environmental impact assessment thresholds

The aim of *Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment* is to protect the environment and human health by ensuring that a competent authority (e.g. a local authority or the Secretary of State) giving consent for certain projects to proceed, makes the decision in the knowledge of any likely significant effects on the environment. The procedure is known as environmental impact assessment. The European Commission has proposed to amend this Directive to ensure consistent application of it between Member States.[8]

In a written statement on 6 December 2012, the Secretary of State, Eric Pickles, said that the Commission's proposals to amend the Directive could add further cost and delay to the planning system, by increasing the regulatory burden on developers:

> The European Commission has announced that it is seeking to amend the environmental impact assessment directive. The explanatory memorandum outlines that the proposals could result in a significant increase in regulation, add additional cost and delay to the planning system, and undermine existing permitted development rights. In addition, the proposal appears inconsistent with the conclusion of the October European Council that it is particularly important to reduce the overall regulatory burden at EU and national levels, with a specific focus on small and medium firms and micro-enterprises. This view was unanimous among all EU Heads of Government, who also agreed with the Commission's commitment to exempt micro-enterprises from EU legislation.[9]

The Directive is enacted into UK law through the *Town and Country Planning (Environmental Impact Assessment) Regulations 2011* (SI 2011/194), which set the thresholds for when a development project will require an environmental impact assessment. The Chancellor's Autumn Statement on 5 December 2012 said that the Government would consult on updated guidance on conducting environmental impact assessments by Budget 2013, and would consult on raising screening thresholds set out in the Regulations later in 2013.[10] In his 6 December 2012 written statement, Eric Pickles set out the Consultation on updated guidance would aim to give greater certainty about when an environmental impact assessment would and would not be required:

> It has become apparent that some local planning authorities require detailed assessment of all environmental issues irrespective of whether EU directives actually require it; similarly, some developers do more than is actually necessary to avoid the possibility of more costly legal challenges which add delays and cost to the application process. Consequently, my Department will be consulting in 2013 on the application of thresholds for development going through the planning system in England, below which the environmental impact assessment regime does not apply. This will aim to

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8 Department for Communities and Local Government, *Explanatory Memorandum on European Legislation*, DEP2012/1770, 6 December 2012

9 HC Deb 6 December 2012 c71-2WS

10 HM Treasury, *Autumn Statement 2012*, 5 December 2012, para 2.149

> remove unnecessary provisions from our regulations, and to help provide greater clarity and certainty on what EU law does and does not require.[11]

In a story in the *Telegraph* on 13 January 2014 it was reported that the Government was "planning to remove the need for developers to assess the impact of some large housing estates, shopping centres and industrial estates on the countryside."[12]

In response to this story the Government said:

> Environmental impact assessments stem from European Union law and impose significant costs on the planning system, over and above long-standing, domestic environmental safeguards. It has become apparent that some local planning authorities require detailed assessment of all environmental issues irrespective of whether EU directives actually require it; similarly, some developers do more than is actually necessary to avoid the possibility of more costly legal challenges, which adds delays and cost to the application process.[13]

The Government's *Technical Consultation on Planning*, July 2014 proposes changes to "reduce the number of projects that are not likely to give rise to significant environmental effects that are screened unnecessarily."[14] The focus is on industrial estate and urban development projects. For industrial development the change is threshold is as follows:

> 5.22 The current screening threshold is 0.5 hectare. As it is unlikely that industrial estates will be smaller than 0.5 hectare, all such development will currently be screened. We propose raising the screening threshold to five hectares. Having considered the Schedule 3 criteria, we do not consider that industrial estate development of this scale, which is outside sensitive areas, is likely to give rise to significant environmental effects within the meaning of the Directive. This would mean that the smallest projects would not need to be screened.[15]

For urban development projects:

> 5.24 The current screening threshold for all urban development projects set out in the 2011 Regulations is 0.5 hectare. The indicative thresholds for urban development projects differ for different types of development. The guidance states that environmental impact assessment is "unlikely to be required for the redevelopment of land unless the new development is on a significantly greater scale than the previous use, or the types of impact are of a markedly different nature, or there is a high level of contamination. The indicative thresholds for sites which have not previously been intensively developed are:
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> - the site area of the scheme is more than five hectares; or
> - it would provide a total of more than 10,000 square metres of new commercial floorspace; or
> - the development would have significant urbanising effects in a previously non urbanised area (e.g. a new development of more than 1,000 dwellings)".

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11 HC Deb 6 December 2012 c71-2WS

12 "Government takes 'nuclear option' with new planning laws" *The Telegraph*, 13 January 2014

13 Department for Communities and Local Government, *Response to story on planning conditions and environmental impact assessments*, 14 January 2014

14 HM Government, *Technical Consultation on Planning*, July 2014, para 5.17

15 HM Government, *Technical Consultation on Planning*, July 2014, para 5.22

> 5.25 We propose to raise the screening threshold for the development of dwelling houses of up to five hectares, including where there is up to one hectare of non-residential urban development.
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> 5.26 Based on an average housing density of 30 dwellings per hectare, the new higher threshold will equate to housing schemes of around 150 units. Having considered the Schedule 3 criteria, we do not consider that housing schemes of this scale, which are outside of sensitive areas, are likely to give rise to significant environmental effects within the meaning of the Directive. It is anticipated that raising the threshold for housing will reduce the number of screenings of proposals for residential development in England from around 1600 a year to about 300.
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> 5.27 Our objective is to move closer to the existing indicative threshold for 'likely significant effects' for housing of 1000 dwelling units (around 30 hectares at average density). However, we would want to be reassured from the available evidence that to do so would be consistent with the requirements of the Directive. We welcome contributions to this consultation which will help make the case for further reform. Conversely, we welcome evidence which shows that moving substantially closer to the indicative threshold than proposed would risk housing projects which give rise to likely significant environmental effects not being subject to assessment.

3.3 Right to Light

The law relating to a right to light is a very complex area. A right to light is a property right called an easement that gives landowners the right to receive light through defined apertures (i.e. a window) in buildings on their land. The right may be created by express grant, by implication and by prescription. The right may enable landowners to prevent construction that would interfere with their rights or, in some circumstances, to have a building demolished.

On 18 February 2013 the Law Commission issued a consultation paper, *Rights to Light*, which sought to examine whether the law by which rights to light are acquired and enforced provided an appropriate balance between the interests of landowners and the need to facilitate the appropriate development of land.[16] The background to the Consultation is previous work done by the Law Commission on easements which found that "rights to light appear to have a disproportionately negative impact upon the potential for the development of land."[17] Another factor is a recent court case which has been suggested has had "a detrimental effect on the ability of rights to light disputes to be resolved swiftly and amicably."[18]

The Law Commission has made four provisional proposals to change the law:

> (1) We propose that for the future it should no longer be possible to acquire rights to light by prescription.
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> (2) We propose the introduction of a new statutory test to clarify the current law on when courts may order a person to pay damages instead of ordering that person to demolish or stop constructing a building that interferes with a right to light.
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> (3) We propose the introduction of a new statutory notice procedure, which requires those with the benefit of rights to light to make clear whether they intend to apply to the court for an injunction (ordering a neighbouring landowner not to build in a way that

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16 Law Commission, *Rights to Light consultation homepage*, 18 February 2013
17 Law Commission, *Rights to Light consultation executive summary*, 18 February 2013, p1
18 Law Commission, *Rights to Light consultation executive summary*, 18 February 2013, p1

> infringes their right to light), with the aim of introducing greater certainty into rights to light disputes.
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> (4) We propose that the Lands Chamber of the Upper Tribunal should be able to extinguish rights to light that are obsolete or have no practical benefit, with payment of compensation in appropriate cases, as it can do under the present law in respect of restrictive covenants.[19]

The Consultation closed on 16 May 2013. The Law Commission has said that it will now review, in discussion with Government, how to take the project forward in the light of consultees' responses. If the project proceeds to a final report with draft bill, it is anticipated that publication will be in late 2014.[20]

Following publication of the consultation, the *Telegraph* reported an initial response to it from the Chairman of the House of Commons Communities and Local Government Select Committee, Clive Betts:

> Clive Betts, chairman of the Commons communities and local government committee, said there was "no merit" in revising the laws and said that light "makes an enormous difference to people's homes". "Light is actually very important," said Mr Betts. "If you allow people to build large extensions and you took away their right to light, essentially people could have the enjoyment of their homes substantially worsened.
>
> "I can't see any justification for scrapping it. It seems to me a perfectly good principle, one people can understand and support. Instinctively my reaction would be that I don't see any merit in this."[21]

3.4 Onshore wind evidence toolkit and standards of engagement

On 20 September 2012 the Department for Energy and Climate Change (DECC), issued a consultation, *Onshore Wind-Call for Evidence Part A - Community Engagement and Benefits*. This document sought evidence about the different types of engagement practices being carried out between onshore wind developers and communities, including before planning applications are made. The Government published a response on 6 June, *Onshore Wind Call for Evidence: Government Response to Part A (Community Engagement and Benefits) and Part B (Costs)*. The Response set that Government planned to produce an "evidence toolkit" in order to support communities in planning for wind farms:

> To support communities to participate in planning, DECC will provide access to clear and reliable evidence on the impacts of onshore wind, through an evidence toolkit. In addition, to support local decision makers and community representatives in planning decisions, DECC have commissioned a series of local seminars on the costs, benefits, impacts and opportunities for positive action on climate change with a focus on renewable energy and onshore wind. The Planning Advisory Service will publish examples of local policies on renewable energy in accordance with the National Planning Policy Framework, and DCLG will issue updated, streamlined planning practice guidance on renewable energy, including onshore wind, in the summer, to assist local councils.[22]

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19 Law Commission, *Rights to Light consultation executive summary*, 18 February 2013, p3

20 Law Commission website, *Rights to Light website* [on 6 August 2013]

21 "Right to light under threat in planning law shake-up" *The Telegraph*, 18 February 2013

22 Department for Energy and Climate Change, *Onshore Wind Call for Evidence: Government Response to Part A (Community Engagement and Benefits) and Part B (Costs),* 6 June 2013, para 14

The evidence toolkit referred to above was initially expected to be published at the end of 2013.

DECC also set out that it would issue separate guidance on the standards of engagement is expects to see between developers and local communities. The Government said that guidance will be developed in partnership with community and industry stakeholders and "we expect it to be available by early 2014."[23]

Any new guidance published or resulting changes would apply to England only.[24]

3.5 Red-Tape Challenge

As part of the Government's red-tape challenge to reduce regulatory burden it was announced, on 29 October 2013, that a phased programme will now begin to reduce the number of technical planning regulations down to 78 - a reduction of 57%.[25] The changes will:

- consolidate the rules on permitted development which have been amended 17 times and need an overhaul to make them easier to understand
- tackle unnecessary and overly burdensome requirements in the application process
- scrap 38 redundant regulations that are no longer needed

A full list of the regulations being removed or amended has been published, *Red Tape Challenge: list of regulations to be improved or scrapped*, October 2013.

3.6 Nationally Significant Infrastructure Projects

Nationally Significant Infrastructure Projects (NSIPs) are usually large scale developments (relating to energy, transport, water, waste water or waste) which require a type of consent known as a "development consent order (DOC)" under procedures governed by the *Planning Act 2008* (the 2008 Act) and amended by the *Localism Act 2011*.

Any developer wishing to construct a NSIP must first apply for consent to do so. For such projects, the Planning Inspectorate examines the application and will make a recommendation to the relevant Secretary of State, who will make the decision on whether to grant or to refuse development consent. The process is timetabled to take approximately 15 months from start to finish. The 2008 Act sets out thresholds above which certain types of infrastructure development are considered to be nationally significant and require development consent.[26] For more information about this process see Library standard note *Planning for Nationally Significant Infrastructure*.

In the *National Infrastructure Plan 2013* the Government announced that it would continue to refine the NSIP regime by:

- launching an overarching review of the NSIP regime, while freezing planning application fees for the NSIP regime for the remainder of this parliament;

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23 Department for Energy and Climate Change, *Onshore Wind Call for Evidence: Government Response to Part A (Community Engagement and Benefits) and Part B (Costs),* 6 June 2013, para 3.7

24 HC Deb 6 June 2013 c1667

25 Department for Communities and Local Government, *Simplified regulations will make planning easier*, 29 October 2013

26 National Infrastructure Planning website, *Planning Inspectorate role* [on 10 April 2013]

- having regard to the designation of a 'Top 40' priority investment when considering applications for the NSIP regime; and
- providing policy certainty and confidence for the transport sector through the publication of a National Networks National Policy Statement (NPS).[27]

The overarching review discussion document was published alongside the Infrastructure Plan and sought views on:

- streamlining consultation and environmental information requirements to speed up the pre-application phase;
- flexibility to make changes to Development Consent Orders after a decision is made;
- expanding the scope of the 'one stop shop' for consents;
- efficiency and flexibility during the examination phases; and
- strengthening guidance on engagement between the developer, Statutory Consultees, Local Authorities and communities.[28]

The "top 40 priority investment" designation would mean that infrastructure projects, that would not otherwise meet the 2008 Act threshold to be classed as a NSIP would be able to use the development consent process. This will particularly be the case for developments related to science and innovation. Further information about the top 40 investments are set out in the National Infrastructure Plan 2013.

The Government responded to the discussion document on 25 April 2014.[29] Annex A to the Government's response stated the actions that the Government intends to take to change the system, how and when. Some of the changes will require amendment to primary legislation. Provision for this is now in the *Infrastructure Bill 2014-15* which will:

- make changes to the procedures in the *Planning Act 2008* for handling minor changes to existing development consent orders (DCOs) for nationally significant infrastructure projects (NSIPs). It would also simplify the processes for making significant changes;
- allow the examining authority, (a panel of planning inspectors who consider DCO applications), to be appointed earlier on in the process, immediately after an application has been accepted; and
- allow the examining authority panel to comprise only two inspectors.

For further information about these provisions see Library standard note, *Infrastructure Bill: Planning Provisions*.

The Government's *Technical Consultation on Planning*, July 2014 proposes changes to the system which currently requires the Secretary of State to publicise and consult on an application for a non-material change to a DCO, to make it so that this is the applicant's responsibility.

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27 HM Government, *National Infrastructure Plan 2013*, 4 December 2013, p11
28 HM Government, *National Infrastructure Plan 2013*, 4 December 2013, pA
29 HM Government, *Government response to the consultation on the review of the Nationally Significant Infrastructure Planning Regime*, 25 April 2014

In respect of making material changes to a DCO the Government proposes to reduce the consultation requirements:

> The Government is therefore proposing to amend the 2011 Regulations covering the duty to consult on a proposed application. Instead of the current requirement to consult each person consulted about the original application for a Development Consent Order for which a change is being sought, the applicant would be required to consult those persons who could be directly affected by the change proposed if consent for the change was given.[30]

Other proposals include:

- introducing a new regulation that allows the Secretary of State not to hold an examination into an application for (a material) change if he considers that one is not necessary;
- amending regulations so that the examination of a project (for a material change) has a maximum period of four months. There will then be a maximum period of two months for the Examining Authority to prepare their report and recommendation and a further two months for the Secretary of State to reach a decision;
- providing a power to refuse to determine an application for material change if, in particular, the Secretary of State considers that the development that would be authorised as a result of the change should properly be subject to a full application for development consent (this would be achieved by inserting an amendment into the Infrastructure Bill);
- Giving developers the option of gaining ten other related consents as part of the DCO (eg concerning European protected species, water discharge, trade effluent, flood defence, water abstraction and impoundment licences).

3.7 Judicial Review

On 6 September the Government published a *consultation* which included proposals to create a new specialist "planning chamber" for challenges relating to major developments to be taken only by expert judges using streamlined processes.[31] The Government believes that judicial reviews have created "unacceptable delays to the development of crucial infrastructure and housing projects."[32] The Consultation explained that the aim was to allow planning cases to be better prioritised and allow specialist judges to maximise their specialist skills to ensure that cases proceed quickly to a determination.

The Government's response to the consultation was published in February 2014 and said that Government would create a specialist Planning Court within the High Court to deal with judicial reviews and statutory appeals relating to Nationally Significant Infrastructure Projects and other planning matters. The *Criminal Justice and Courts Bill 2013-14 to 2014-15* now contains this provision.

3.8 Local Plans: statutory requirement

In the *National Infrastructure Plan 2013* the Government said that would consult on introducing a statutory requirement for local authorities to have a local plan in place:

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30 HM Government, *Technical Consultation on Planning*, July 2014, para 6.26
31 Ministry of Justice, *Judicial Review: proposals for further reform*, 6 September 2013
32 HM Government, *National Infrastructure Plan 2013*, 4 December 2013, para 7.36

> 7.42 Local Plans provide certainty for developers, while supporting locally-led sustainable development. Three quarters of planning authorities now have a published Local Plan, but further progress can be made. The government will consult on measures to improve plan making, including introducing a statutory requirement to put a Local Plan in place.[33]

3.9 Planning conditions

The power to impose conditions when granting planning permission is very wide. They can be used to enhance the quality of development and enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission.[34] They can cover a wide range of issues such as design and landscape to restricting hours of operation of a business. Under the National Planning Policy Framework planning conditions should "only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects."

In the *National Infrastructure Plan 2013* the Government expressed concern about delays with local planning authorities discharging planning condition and committed to making changes to the system:

> 7.43 Delays associated with the discharge of planning conditions can hinder the effective delivery of development. The government will legislate so that where a planning authority has failed to discharge a condition on time, it will be treated as approved, and will consult on using legislative measures to strengthen the requirement for planning authorities to justify conditions that must be discharged before any work can start.

It was confirmed, in the Queen's Speech on 4 June 2014 that this changes would be taken forward as part of the "Infrastructure Bill" for the 2014-15 session.[35] The Infrastructure Bill 2014-15 has now been published and would allow for certain types of planning conditions to be regarded as discharged if a local planning authority has not notified the applicant of their decision within a set time period. For further information about this provisions see section 3 of Library standard note, *Infrastructure Bill: Planning Provisions*. The Government's *Technical Consultation on Planning*, July 2014 also asks for views about how this measure might work in practice and whether any exemptions from this should apply.[36]

3.10 Statutory consultation reduction

The *National Infrastructure Plan 2013* said that there would be a consultation on reducing when statutory consultation would be required as part of the planning process:

> 7.44 To prevent delays for applicants, the government will consult on proposals to reduce the number of applications where unnecessary statutory consultations occur, and key statutory consultees will commit to a common service agreement. The government will also pilot a new scheme to provide a single point of contact for cases where a point of conflict in advice cannot be resolved locally.

The Government's *Technical Consultation on Planning*, July 2014, chapter 4 gives more detail about what is proposed. It proposes, for example, changes to the requirement to

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33 HM Government, *National Infrastructure Plan 2013*, 4 December 2013, para 7.42
34 Government, *Circular 11/95: Use of conditions in planning permission*
35 Queen's Speech 2014: background briefing notes, p25
36 HM Government, *Technical Consultation on Planning*, July 2014, chapter 3

consult Natural England, English Heritage and the Highways Agency before the grant of planning permission in certain circumstances.

The consultation also proposes to introduce an extended requirement to ensure that railway infrastructure managers are notified of all planning applications where development is proposed near a railway (para 4.62).

3.11 Householder benefits of infrastructure

In the *National Infrastructure Plan 2013* the Government said that it would develop a pilot of a system by where individual householders are given a "share of the benefits" of infrastructure:

> 7.45 The government wants to ensure that households benefit from developments in their local area. Building on the measures it has already put in place at the local authority and community level (including the neighbourhood funding element of the Community Infrastructure Levy, 'Community Benefits' in the energy sector and the New Homes Bonus), the government will work with industry, local authorities and other interested parties to develop a pilot passing a share of the benefits of development directly to individual households.

3.12 Planning authority performance

The *Growth and Infrastructure Act 2013* allows applicants for major development to apply direct to the Secretary of State (in practice a Planning Inspector), rather than the local planning authority (LPA), where the LPA has been "designated" for having a record of very poor performance in the speed or quality of its decisions.

In the *Autumn Statement 2013* the Government said that it would consult on increasing the threshold for designation from 30% to 40% of decisions made on time. On 23 March 2014 the Government published a consultation, *Planning performance and planning contributions: consultation* which consulted on raising threshold for designation as follows:

> We are proposing that the threshold for designating authorities as under-performing, based on the speed of deciding applications for major development, should increase to 40% or fewer of decisions made on time. The threshold may be raised further at a future stage. Authorities that have dealt with an average of no more than two applications for major development, over the two year assessment period, would be exempt from designation based on their speed of decisions. The document setting out the criteria for designation would set out the types of exceptional circumstances that may be taken into account, prior to designations being confirmed.

The Government responded to this part of the consultation on 13 June 2014.[37] It confirmed that the threshold for designation will be raised to 40% and said that there would be scope for further increases in the future. The Government also confirmed that it intends to introduce an exemption from designation based on the speed of decisions, for those authorities which have determined two or fewer applications for major development over the two year assessment period (of July 2012 to June 2014). This was because "two applications or fewer is insufficient to point to a record of poor performance and does not provide a robust statistical basis for designation."[38]

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[37] HM Government, *Planning performance: government response to consultation*, 13 June 2014

[38] HM Government, *Planning performance: government response to consultation*, 13 June 2014, para 27

The Government published a draft version of its revised criteria for designation document, on 13 June 2014, which must lay before Parliament for a statutory 40 day period before any changes can come into effect. The next full round of designations is due in October 2014 it is expected that this threshold would be used for any designations in October 2014, for both district and county matter authorities.[39]

3.13 Section 106 contributions

Section 106 contributions, sometimes known as "planning obligations" or "planning gain" stem from agreements made under section 106 of the Town and Country Planning Act 1990. They are agreements made between the developer and the LPA to meet concerns about the costs of providing new infrastructure or affordable housing levels.

In the *Autumn Statement 2013* the Government said it would consult on introducing a new 10 unit threshold for section 106 contributions relating to affordable housing contributions, in order to reduce costs for smaller builders.

In the 23 March 2014 consultation *Planning performance and planning contributions: consultation,* the Government set out plans for introducing a 10-unit and 1,000 square metres gross floor space threshold for affordable housing contributions through section 106 planning obligations:

> This consultation proposes that before any request for affordable housing contributions can be considered as part of a section 106 planning obligations agreement, authorities will have to have regard to national policy that such charges create a disproportionate burden for development falling below a combined 10-unit and maximum of 1,000 square metres gross floor space threshold. We also intend to make clear that, having regard to such disproportionate burdens, authorities should not seek affordable housing contributions for residential extensions or annexes added to existing homes.
>
> 26. This change in policy would restrict the use of section 106 planning obligation contributions where sites contain 10 units or less with a maximum combined gross floor space of 1,000 square metres and for residential extensions or annexes. It is proposed to include a maximum total floor space in combination with a unit threshold to avoid creating a perverse incentive in terms of construction density.

Rural Exception Sites would be excluded from this threshold. The consultation also proposed that buildings brought back into use should be excluded from section 106 requirements, other than proportionately for any increase in floor space. The consultation closed on 4 May 2014. The Government has not yet responded to this part of the consultation.

3.14 Land Review Requirement

In the Government's *Supporting High Streets and Town Centres Background Note*, 6 December 2013, it was set out that "to ensure that councils are keeping their high streets up to date", the Government will publish "new guidance that councils should review their retail land to take account of the changing local market."

3.15 Traveller and green belt sites

In a written ministerial statement to Parliament on 17 January 2014, the Government said that it would consider improvements to planning policy and practice guidance to strengthen green belt protection in regard to traveller sites:

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[39] HM Government, *Planning performance and planning contributions: consultation*, 23 March 2014, paras 15 &

> Moreover, ministers are considering the case for further improvements to both planning policy and practice guidance to strengthen green belt protection in this regard. We also want to consider the case for changes to the planning definition of 'travellers' to reflect whether it should only refer to those who actually travel and have a mobile or transitory lifestyle. We are open to representations on these matters and will be launching a consultation in due course.[40]

A consultation was published on this matter, *Consultation: planning and travellers*, on 14 September 2014 and which closes on 23 November.

The consultation invites views on a number of different questions. One of the main questions is about whether the definition of "traveller" should be changed for planning related purposes so that it would exclude those who have permanently ceased from travelling. The current definition of traveller can be found in the Government's Planning Policy for Traveller Sites. The consultation explains the Government's reasons for proposing this change:

> 2.2 Current policy requires that those who have ceased travelling permanently for reasons of health, education or old age (be it their needs or their family's or dependents') are for the purposes of planning treated in the same way as those who continue to travel.
>
> 2.3 The Government feels that where a member of the travelling community has given up travelling permanently, for whatever reason, and applies for a permanent site then that should be treated no differently to an application from the settled population (for example, seeking permission for a Park Home). This would not prevent applications for permanent sites, but would mean that such applications would be considered as any other application for a permanent caravan site would be: i.e. not in the context of Planning Policy for Traveller Sites.
>
> 2.4 This is not about ethnicity or racial identity. It is simply that for planning purposes the Government believes a traveller should be someone who travels.

The proposed new definition of gypsies and travellers would read:

> Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.[41]

The Consultation also asks for views on whether the Government should integrate sections from the National Planning Policy Framework on green belt protection with its Planning Policy for Traveller Sites. The intention of this is to reiterate and make clearer existing planning policy relating to green belt and travellers, rather than to change policy. The Government also proposes to inset the word "very" into the following existing policy to give stronger emphasis: "Local planning authorities should [very] strictly limit new traveller site development in open countryside."

One proposed change is to amend the weight which is currently given to any absence of a five year supply of permanent sites when deciding planning applications for temporary sites in land designated as Green Belt, sites protected under the Birds and Habitats Directives, sites designated as Sites of Special Scientific Interest, Local Green Space, an Area of

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40 HC Deb 17 Jan 2014 c35WS

41 HM Government, *Consultation: planning and travellers,* 14 September 2014, section 2.6

Outstanding Natural Beauty, or within a National Park or the Broads. The consultation explains, "the absence of an up-to-date five year supply of deliverable sites would therefore no longer be a significant material consideration in favour of the grant of temporary permission for sites in these areas. It would remain a material consideration, but its weight would be a matter for the decision taker."[42]

The Consultation also proposes to change planning policy to deal with the intentional unauthorised occupation of sites, so that if a site were to be intentionally occupied without planning permission, that this would be a material consideration in any retrospective planning application for that site:

> For the avoidance of doubt, this does not mean that retrospective applications should be automatically refused, but rather failure to seek permission in advance of occupation will count against the application. It will, the Government hopes, encourage all applicants to apply through the proper planning processes before occupying land and carrying out development.[43]

Another measure aimed at address unauthorised occupation of land is to remove the need for local authorities which are "burdened by a large-scale unauthorised site which has significantly increased their need", to be required to plan to meet their traveller site needs in full.

3.16 Neighbourhood Planning

In response to an oral question in the House of Commons on 3 March 2014 about whether neighbourhood planning could be introduced for small communities the Planning Minister, Nick Boles, said that work was underway to look at that this:

> We have, I think, now reached the point where there has been enough experience of neighbourhood planning with enough different kinds of communities for us to learn lessons and to ask whether there is not a version of neighbourhood planning that might be more easily accessible and quicker for some communities. We are doing that work, and we are very keen to hear from any hon. Members and communities with their thoughts on how we can achieve that.[44]

In the July 2014 *Technical Consultation on Planning*, the Government proposed a number of changes to the existing neighbourhood planning process, in order to make the process faster:

> 1.5 We are proposing to set a statutory time limit of 10 weeks (70 days) within which a local planning authority must make a decision on whether to designate a neighbourhood area that has been applied for by a parish or town council or prospective neighbourhood forum (or community organisation bringing forward a community right to build proposal). This time limit will apply where the area applied for follows parish or electoral ward boundaries and there is no existing designation or outstanding application for designation, for all or part of the area for which a new designation is sought.
>
> 1.6 We propose removing the current statutory requirement for a minimum of six weeks of consultation and publicity by those preparing a neighbourhood plan or Order.

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42 HM Government, *Consultation: planning and travellers,* 14 September 2014, section 3.8
43 HM Government, *Consultation: planning and travellers,* 14 September 2014, section 4.10
44 HC Deb 3 March 2014 c621

1.7 We propose to require those preparing a neighbourhood plan to consult certain landowners.

1.8 We intend to introduce a new statutory requirement (basic condition) to test the extent of the consultation undertaken during the preparation of a neighbourhood plan or Order (including a community right to build order).

1.9 We intend to clarify the information that should be submitted with a neighbourhood plan in order that its compatibility with obligations under the Strategic Environmental Assessment Directive can be assessed. We will do this by setting out in regulations that a neighbourhood plan proposal, when it is submitted to a local planning authority, must be accompanied by either:

- a statement of reasons why the proposed plan is unlikely to have significant environmental effects (a screening opinion);
- an environmental report;
- an explanation of why the proposed plan does not require screening or environmental assessment.

Further information about all of these proposals is set out in the consultation document.

3.17 Garden Cities

In *Budget 2014* the Government announced that it would support a new Garden City at Ebbsfleet in Kent:

> 1.145 The government will support a new Garden City at Ebbsfleet. Ebbsfleet has capacity for up to 15,000 new homes, based on existing brownfield land. To date, under 150 homes have been built on the largest site. The government will form a dedicated Urban Development Corporation for the area, in consultation with local MPs, councils and residents, to drive forward the creation of Ebbsfleet Garden City, and will make up to £200 million of infrastructure funding available to kick start development. This will represent the first new garden city since Welwyn Garden City in 1920.

An article on the Planning Portal website highlighted that the new urban development corporation would have compulsory purchase powers:

> The development is earmarked for brownfield land – a former quarry and industrial sites - around the high speed rail station at Ebbsfleet which is 19 minutes by train from central London. The initiative will be supported by an urban development corporation which will have compulsory purchase powers.
>
> "We're going to create an urban development corporation so we're going to create the instrument that allows this kind of thing to go ahead and cuts through a lot of the obstacles that often happen when you want to build these homes," the Chancellor told the BBC.[45]

On 14 April 2014 the Government published a prospectus called *Locally-led Garden Cities*. The prospectus sets out a support package which the Government can offer to local areas which are interested in forming a new garden city.

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[45] Planning Portal, *Chancellor confirms Ebbsfleet as new garden city*, 20 March 2014

In the Queen's Speech 2014 Background Briefing Note it was announced that Government would introduce the secondary legislation to allow for a locally supported garden city to be built in Ebbsfleet, backed by an Urban Development Corporation.[46]

For more information about garden cities see the Library Standard Note, *Garden Cities*.

3.18 Brownfield Land

In the Mansion House Speech 2014 on 12 June, the Chancellor George Osborne announced that Councils would be required to put local development orders on over 90% of brownfield sites that are considered suitable for housing. He suggested that this would mean planning permission for up to 200,000 new homes.

This speech was later followed by a written statement in the House of Commons by the Secretary of State for Communities and Local Government, Eric Pickles, which set out further the Government's plans to increase housebuilding on brownfield land:

> Councils will play a critical role in bringing forward suitable unused and previously developed land. They will consult on and put in place local development orders, which are a flexible, proactive way to provide outline planning permission for the scale and type of housing that can be built on sites. This will provide greater certainty for both builders and local residents, helping developers to work up suitable schemes and ultimately speeding up the building of new homes. Our aim is to see permissions in place on more than 90% of suitable brownfield sites by 2020—which could provide up to 200,000 new homes.
>
> We are providing a £5 million fund, to be launched before the summer, to support the first wave of new local development orders; we will also be providing a set of local development order "templates" for smaller brownfield sites, and will consult on other measures to underpin this programme later in the year. The Mayor of London will be given new powers to drive forward local development orders in the capital. But this drive for planning permissions will retain key safeguards—as with any planning application, councils will need to take account of the views of local people when preparing an order, as well as environmental issues like minimising flood risk.[47]

Information is also given in the accompanying Government press release, *Government initiatives to help build more new homes on brownfield land*, 13 June 2014.

A Local Development Order (LDO) grants permission for a certain type of development and thereby removes the need for a planning application to be made by the developer. The legal basis is sections 61A-61D of the *Town and Country Planning Act 1990*. The idea is that they can allow developers to progress development proposals with greater speed and certainty. Associated costs may be lower with an LDO as there will not be a planning application fee or need to commit the resources associated with the preparation of an application. The procedure for making an LDO is set out in section 34 of the *Town and Country Planning (Development Management Procedure) (England) Order 2010*, SI 2010/2184. Further information about LDOs is set out in the National Planning Practice Guidance.

It is not yet known exactly how councils will be required to put a LDO in place – whether this will be a legal requirement or a change to policy guidance. As set out in the written statement

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46 Queen's Speech 2014: background briefing notes, p43
47 HC Deb 16 June 2014 c72WS

above, the Government will "will consult on other measures to underpin this programme later in the year."[48]

A summary of reaction to the proposals on brownfield land policy from planning and house building professionals is available on the Planning Blog, 13 June 2014.

3.19 A "right to build" (self build plots)

The Budget 2014 announced that the Government would consult on creating a new "right to build" which would give people who want to build their own homes a right to a plot from a council and access to a repayable fund.[49]

In July 2014 the Department for Communities and Local Government published an expression of interest for "right to build vanguards". It invites expressions of interest from local planning authorities in becoming Right to Build vanguards. In it the Government said that there would be a consultation on the right to build later in the year. The document sets out that a right to build would be a requirement on local authorities to:

> (a)Open and promote a register for prospective custom builders. A key purpose of the register is to measure effectively the demand for custom build housing in the local area. We are considering options on how this register might operate, including, for example, that eligibility for registration would be open to those who are resident in the local authority area and potentially also those with a direct family connection to the area.
>
> > The proposed requirement to open and promote a register builds upon existing national planning policy and guidance. The National Planning Policy Framework3 requires local authorities to have a clear understanding of housing need in their area and plan to address the need for all types of housing, including the demand from those people wishing to build their own homes. The Government's Planning Practice Guidance states that plan makers should, therefore, consider surveying local residents, possibly as part of any wider surveys, to assess local housing need for this type of housing, and compile a local list or register of people who want to build their own homes; and
>
> (b)Make available, for sale at market value, a sufficient number of suitable serviced plots for those on the register within a reasonable period of time. Land for plots could come from local authorities' own landholdings or land from other landowners.[50]

The document also makes clear that the Government is considering the design of a number of issues which would be subject to the forthcoming consultation. These include:

> a. The specific eligibility rules that might apply to the registration process
>
> b. The extent to which the local authority should meet the different preferences of people on the register
>
> c. The application of the Right in areas with limited land supply
>
> d. How plots might best be made available, taking account of different models of custom build and local circumstances

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48 HC Deb 16 June 2014 c72WS

49 HM Treasury, Budget 2014, 19 March 2014, para1.142

50 Department for Communities and Local Government, *Right to Build Vanguards: Invitation for expressions of interest*, July 2014, para 9

e. How design codes might be used to best effect, taking account of local views and the needs of custom builders.[51]

[51] Department for Communities and Local Government, *Right to Build Vanguards: Invitation for expressions of interest*, July 2014, para 10

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Contents

1. What?
2. Why?
3. What will it tell us?
4. What's involved?
5. Next steps ?

[There are a few speakers notes, embedded in the slides. Last updated 1st May.]

What?

- It’s run a bit like a club; rules, data standards, confidentiality
- At the heart of the framework is sector-led self-improvement and self-regulation:

  Demonstrate a real understanding of what matters to customers and focus improvement around this.
- No disguises; a real picture of what's happening
- Demonstrates the effects of decisions
- Customer-centric performance metrics
- Detail and data not available elsewhere

Why?

the focus will always be on speed until there is **something better to care about**

did that work?

routine / unusual

how much of what?

good ideas

did we/do we add value?

big stuff / small stuff

wasted time/effort

validation

permitted development

do customers like us?

conditions

neighbours feel ignored?

a simple concept

- what?
  - toolkit: website, techniques, templates
  - data: applications, surveys, feedback
  - focus: performance, opinions, quality
- how?: regular reports
- why?: continuous improvement
- when?: modular, just start

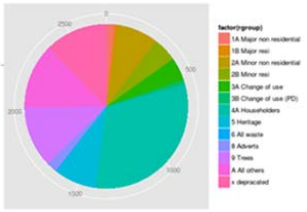
a framework based on three things

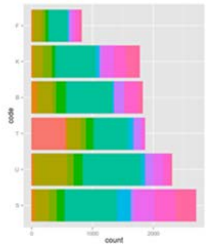
1. application data (performance statistics)
2. survey data (what customers say/think)
3. feedback on quality (did we plan well?)

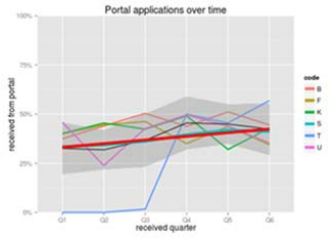
together = balanced, holistic framework

- powerful as 3 separate things
- we’re going to bring them together to create a framework for assessing quality
- and develop it over time

what will it tell us?







- applications data: speed *PLUS* non-value work, validation, conditions, decisions, work flow

- survey data: agents/applicants *PLUS* neighbours, amenity groups, councillors, staff

- feedback on quality: *NEW* service quality, planning quality, development and outcomes quality

Data and evidence to support better decisions

what’s the commitment ?

- Council:
  - A chief data wrangler to set up, maintain, administer
  - Regular surveys to applicants, agents and neighbours
  - Annual surveys – staff, councillors, amenity groups
  - Quality of development survey on large applications

what do we get?

What councils get ?

- Detailed understanding of what's happening
- Survey feedback on peoples' opinions
- Data on quality of work and outcomes
- Quarterly and annual performance reports

Together = balanced, holistic framework

what’s the cost?

- There is no (£) cost
- But this involves some work (some one-off, some ongoing) to create data
- your people will need to learn some new things
- PAS will train and support the mechanics

next steps ?

Councillors and senior officers may need to:

- Be prepared to unblock the process of information gathering
- Make clear your values – where are you on performance, quality, customer focus etc.?
- Support longer-term work on improvement

Contact us

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