Longer term reform of the planning system in England
March 2020 – 1 September 2020

6 August 2020

1. **Planning White Paper – Planning for the Future**
   Summary of key issues in the White Paper

   Under the proposals, local plans would identify three categories of land.
   Growth Renewal and Protection

   Growth areas
   - suitable for substantial development
   - outline approval for development would be automatically granted for forms and types of development specified in the plan.

   Renewal areas
   - suitable for development
   - Planning in Principle permissions

   Protected areas
   - development is restricted.

   Instead of general policies for development, plans would be required to set out site-specific and area-specific requirements for development, alongside locally produced design codes.

   There would be “a new emphasis on engagement at the plan-making stage”, the document says.

   The existing tests of soundness would be abolished, to be replaced by a “single statutory ‘sustainable development’ test.

   The duty to co-operate would be also be abolished

   Requirements for environment impact assessment and viability assessment would be “updated”.

   Under the new system, local plans would need to be “visual and map-based, standardised, based on the latest digital technology and supported by a new standard template”, the document says.

   The government proposes that local authorities and the Planning Inspectorate will be required through legislation to meet a statutory timetable (of no more than 30 months in total) for key stages of the process, promising sanctions for those who fail to do so.

The planning process would be increasingly digitised, moving from "a process based on documents to a process driven by data"

The document says local planning authorities would be helped to use digital tools to support "a new civic engagement process for local plans and decision-making".

The government would insist local plans are built on standardised, digitally consumable rules and data, with the aim of enabling accessible interactive maps that show what can be built where.

It also plans to standardise, and make openly and digitally accessible, other critical datasets that the planning system relies on, including planning decisions and developer contributions.

And it wants to modernise the software used for making and case-managing a planning application.

Planning authorities would be given new powers to drive up design and sustainability standards

Under the revised system, there would be a greater focus on 'placemaking' and 'the creation of beautiful places' within the National Planning Policy Framework.

New development would be expected to create a "net gain" to an areas' appearance. Design codes, which would be expected to be prepared locally, would be made "more binding" on planning decisions. A new body would be established to support the delivery of design codes across the country.

Proposals for high-quality developments that reflect local character and preferences would benefit from "automatic permission" under a proposed new "fast-track for beauty".

Each local planning authority would be required to have a chief officer for design and place-making

The document also repeats the government's aim to revise the system for assessing the environmental impact of development - the environment secretary has said that proposals for this will be set out this autumn

And it hints at changes to building conservation consents, saying that the government will "protect our historic buildings and areas while ensuring the consent framework is fit for the 21st century".

A new 'single infrastructure levy' will replace the existing system for getting developers to fund the infrastructure required by their schemes through section 106 agreements and the Community Infrastructure Levy.

The government says the new single infrastructure levy will be a nationally set, flat rate charge.

It says that it intends the new levy to raise more revenue than under the current system of developer contributions, and deliver "at least as much" affordable housing, and on-site affordable housing, as at present

The government says it will also look to extend the scope of the consolidated infrastructure levy, and remove exemptions from it "to capture changes of use through permitted development rights".

A "binding" housing requirement would be introduced that local planning authorities would "have to deliver through their local plans"

The document says a new, nationally determined, binding housing requirement that local planning authorities would have to deliver through their local plans would be created.

It says the requirement would be focused on areas where affordability pressure is highest to stop land supply being a barrier to enough homes being built.

Big building sites would be split between developers to accelerate delivery

The government proposes to revise the National Planning Policy Framework to make it clear that masterplans and design codes for sites prepared for substantial development should seek to include a variety of development types from different builders which allow more phases to come forward together.

It also promises to consult on options for improving the data held on contractual arrangements used to control land. And to ensure decisions on the locations of new public buildings – such as government offices and further education colleges – support renewal and regeneration of town centres

Community consultation at the planning application stage is to be "streamlined"

The document says, although the government wants to place new emphasis on engagement at the plan-making stage, it intends to "streamline" the opportunity for consultation at the planning application stage.

2. Changes to the current planning system
Consultation on changes to planning policy and regulations

This consultation was published on the same day as the Planning White Paper. I seek views on four specific matters

- The standard method for assessing housing numbers in strategic plans
- Delivering First Homes
- Supporting small and medium-sized developers
- Extension of the Permission in Principle consent regime

This consultation will last for 8 weeks from 06 August 2020 and will close at 23.45 on Thursday 1st October 2020.

The standard method for assessing housing numbers in strategic plans

The Government has based the proposed new approach on a number of principles for reform. These include ensuring that the new standard method delivers a number nationally that is consistent with the commitment to plan for the delivery of 300,000 new homes a year, a focus on achieving a more appropriate distribution of homes, and on targeting more homes into areas where they are least affordable.

The new standard method should ensure that all areas of the country are encouraged to build the homes their communities need. The reasons for which homes are needed varies in different areas of the country. In some areas, new homes can play a vital role in schemes to regenerate deprived areas. In others the existing stock doesn't meet the needs of the existing communities in terms of providing the right size, type and tenure for different groups within the community and new homes are required to address this.

It proposed to introduce a new element into the standard method, a percentage of existing housing stock levels, which takes into account the number of homes that are already in an area. This should ensure that diverse housing needs in all parts of the country are taken into account. It should also offer the stability and predictability which has been absent when solely relying on household projections.

The Government also proposes to introduce an affordability adjustment that takes into account changes over time, in addition to the existing approach of considering absolute affordability. This will increase the overall emphasis on

affordability in the formula and ensure that the revised standard method is more responsive to changing local circumstances, so that homes are planned for where they are least affordable. For example, where affordability improves, this will be reflected by lower need for housing being identified. The Government also proposes to remove the cap which artificially suppresses the level of housing identified.

Delivering First Homes

The Government intends to set out in policy that a minimum of 25 per cent of all affordable housing units secured through developer contributions should be First Homes. This will be a national threshold, set out in planning policy.

Supporting small and medium-sized developers

It is proposed to raise the small sites threshold to up to either 40 or 50 new homes through changes to national planning policy and are seeking views on the most appropriate level. The current threshold is 10 dwellings. These thresholds balance the aim of supporting SMEs with the need to deliver new affordable homes. This will be for an initial period of 18 months in which we will monitor the impact of the raised threshold on the sector before reviewing the approach.

National policy currently sets out a site size threshold for residential development in addition to number of homes. It makes clear that affordable housing contributions should not be sought for developments that have a site area of less than 0.5 hectares. It is proposed to scale up the site size threshold at the same proportion as the increase in number of homes threshold and we are seeking views on whether this is the most appropriate approach.

There could be adverse threshold effects whereby developers attempt to bring forward larger sites in phasings of up to 40 or 50 homes (depending on which threshold is taken forward in legislation) to avoid contributions. To minimise the impact of this potential threshold effect, we propose to set out in planning guidance how local planning authorities can secure contributions for affordable housing where it is apparent that a larger site is being brought forward.

Extension of the Permission in Principle consent regime

Permission in Principle was introduced in 2017 as a new faster way of obtaining planning permission for housing-led development, which reduced the need for landowners and developers to incur significant costs to establish the principle of development for housing. This was done by giving authorities the power to grant Permission in Principle to suitable sites allocated on

registers of brownfield land. Subsequently, Permission in Principle by application was introduced in 2018, for minor development (i.e. small sites that support fewer than 10 dwellings).

The Permission in Principle consent route has two stages:

- the first stage ("Permission in Principle") establishes whether a site is suitable in-principle for development. This grant of Permission in Principle is for five years and no planning conditions can be attached to it
- the second ('technical details consent') stage is when the detailed development proposals are assessed, and conditions can be attached

As part of plans to support economic recovery, the Government wants to make it easier for landowners and developers to have certainty that the principle of development for housing only needs to be established once in the process before developers need to get into more costly, technical matters. This is particularly important for smaller sites which have not been allocated in local plans and where there is now, due to the rapidly changing economic circumstances, a desire by landowners to release the land for housing.

The Planning White Paper (Planning for the Future) proposes that land allocated for substantive development in local plans should be automatically granted a form of permission of principle so that the principle of development is established, and subsequent consents only focus on detailed technical matters. As this new framework will take time to implement, the Government is keen to expand the current Permission in Principle framework for housing-led development as an early opportunity to move towards this new approach.

31 August 2020

3. **The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 3) Order 2020**

   Came into effect at 10.00 a.m. on 31st August 2020

   One of the regulations enacts a new permitted development (PD) right to demolish vacant buildings and replace them with new residential units. An explanatory memorandum says the new right will apply to "vacant and redundant free-standing buildings" that are classed as offices, premises for research and development or light industrial processes, and "purpose-built residential blocks".

   Buildings must have been "entirely vacant for at least six months prior to the date of the application for prior approval", it goes on to say, and built before 1 January 1990. The new building cannot be larger than the footprint of the existing building and cannot exceed a maximum size of 1,000 square metres.

However, it can be up to seven metres higher to accommodate up to two additional residential storeys, within a final overall maximum height of 18m, the note says.

The local authority must decide on any application for prior approval within eight weeks, after which the applicant has a right of appeal to the secretary of state.

Matters to be considered through prior approval include:

- the transport and highways impacts,
- contamination and flooding risks ,
- the impact of noise on the future residents,
- design and external appearance of the new building,
- the adequacy of natural light in all habitable rooms of each new dwellinghouse,
- the impact of the introduction of residential use into an area,
- the impact of the development on the amenity of the new building and of neighbouring premises, including overlooking, privacy and light.

Taken together, demolition and replacement build must be completed within three years of the date of the grant of prior approval. The right does not allow for demolition without subsequent construction of a new residential building, nor for the construction of a new residential building on previously cleared land.

The local authority has to "notify any owners or occupiers adjoining the proposed development".

The developer must prepare a construction management plan, setting out how it intends to minimise adverse impacts on neighbouring premises.

4. The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020

Came into effect at 9.00 a.m. on 31st August 2020

A second regulation introduces a PD right allowing homeowners to extend their properties via upward extensions. This is a permanent right to enabling existing houses that are detached, semi-detached or in a terrace to be extended upwards to provide additional living space by constructing additional storeys.

An explanatory memorandum on the change says the right allows the construction of up to two additional storeys on the topmost storey of a detached house of two storeys or more, or one additional storey on a detached house of one storey, above ground level.

The memorandum says that, in a terrace of two or more houses (which includes semi-detached houses) the right "allows the construction of up to two additional storeys on the topmost storey of a house of two storeys or more, or one additional storey on a house of one storey above ground level".

"Existing accommodation in the roof space of the existing house, including a loft extension, is not considered as a storey for the purposes of this right," the memorandum says.

The right is "subject to a maximum height limit for the newly extended house of 18 metres, and where the house is in a terrace its height cannot be more than 3.5 metres higher than the next tallest house in the terrace", the explanatory memorandum says.

To prevent overlooking, the document says, a window "cannot be installed in a wall or roof slope of a side elevation of an additional storey built under this right".

The right is also subject to obtaining prior approval from the local authority, which will consider certain matters relating to the proposed construction of additional storeys. These include:

- consideration of the impact on the amenity of neighbouring premises, including overlooking, privacy and overshadowing;
- the design, including the architectural features of the principal elevation of the house, and of any side elevation which fronts a highway;
- the impacts a taller building may have on air traffic and defence assets and on protected vistas in London.

Four new PD rights allowing upward extensions are also introduced by the same statutory instrument, *The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020*. They are:

- Class AA "which permits construction of up to two new storeys of flats on top of detached buildings in commercial or mixed use, including where there is an element of residential use";
- Class AB which "permits the construction of new flats on top of terrace buildings (including semi-detached buildings) in commercial or mixed (including residential) use";
- Class AC which "permits the construction of new flats on top of terrace dwellinghouses (including semi-detached houses)";
- Class AD which "permits the construction of new flats on top of detached dwellinghouses.

In the new AA-AD use classes, "two storeys may be added if the existing building is two or more storeys tall, or one additional storey where the building

consists of one storey", the notes say. The regulations stipulate that "storey" is defined "so as to exclude any storey below ground level, and any living space within the roof of the dwellinghouse".

The new PD rights are subject to a number of limitations and conditions, including a requirement for prior approval from the local planning authority in relation to certain matters. These relate to:

- the transport and highways impacts of the development;
- air traffic and defence asset impacts;
- contamination risks in relation to the building;
- flooding risks in relation to the building;
- the external appearance of the building, including the design and architectural features of the principal elevation and any side elevation that fronts a highway;
- the provision of adequate natural light in all habitable rooms of the new dwellinghouses;
- the impact on the amenity of neighbouring premises including overlooking, privacy and the loss of light;
- whether, because of the siting of the building, the development will impact on a protected views.

The new rights do not apply to buildings constructed before 1 July 1948 or after 5 March 2018.

Conversions would not be allowed if the floor to ceiling height of any additional storey, measured internally, would be lower than three metres or "the floor to ceiling height, measured internally, of any storey of the principal part" of the existing property.

None of the rights apply in conservation areas, national parks and the Norfolk Broads, areas of outstanding natural beauty, or sites of special scientific interest.

1 September 2020

5. **The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020**

The regulations came into force on 1 September 2020.

Three new broad use classes - class E, class F1 and class F2 - have been introduced in England.

- The new class E "commercial, business and service" use class subsume the existing class A1 (Shops), class A2 (Financial and professional

services), class A3 (Restaurants and cafes), and class B1 (Business) use classes, the regulations say.

- Class F1 relates to "learning and non-residential institutions" and includes any non-residential use for the "provision of education, for the display of works of art (otherwise than for sale or hire), as a museum, as a public library or public reading room, as a public hall or exhibition hall, for, or in connection with, public worship or religious instruction, as a law court".
- Class F2 relates to "local community" uses. This includes, according to an explanatory memorandum, smaller shops "mostly selling essential goods, including food, to visiting members of the public in circumstances where the shop's premises cover an area not more than 280 metres square, and there is no other such facility within 1,000 metre radius of the shop's location". Such a shop is defined as "mostly for the sale of a range of essential dry goods and food to visiting members of the public". The memo adds that this "provides some protection for such shops while placing those shops found on high streets and town centres in the new 'commercial' class". F2 uses also include "a hall or meeting place for the principal use of the local community, an area or place for outdoor sport or recreation, not involving motorised vehicles or firearms, an indoor or outdoor swimming pool or skating rink".

Some uses have been given greater protection. Pubs (class A4), takeaways (A5) and cinemas, concert halls, bingo halls and dance halls (D2) have become "sui generis" meaning that they are not in any use class. Therefore, planning permission continues to be required to change to and from these uses.

Some use classes, including industrial (B2), storage and distribution (B8) and the C-class residential uses remain unchanged.

For the purpose of permitted development (PD) rights only, the existing use classes remain until 31 July 2021 when such rights are due to reviewed by the government. So a class E use that becomes an office would not be allowed to then convert to residential use under PD rights.

The Planning Practice Guidance is to be updated to reflect the changes before they come into effect.