

PLANNING BRIEFING NOTE

October 2015

THE HOUSING AND PLANNING BILL AND OTHER PROPOSED PLANNING REFORMS

OVERVIEW

Whilst the Conservative Party conference came and went without any of the anticipated announcements on planning reform and measures to boost housing delivery, the following week saw an announcement from the Prime Minister that the Government would take forward a range of new initiatives in England, with a Housing and Planning Bill following shortly afterwards.

THE KEY ANNOUNCEMENTS

'Office to residential' permitted development right

The Government has announced that the 'office to residential' permitted development right will be permanent. The permitted development right, under which offices can be converted to new homes with 'prior approval' (effectively a light touch planning permission), had been due to expire in May 2016.

Where prior approval has already been secured, developers will have up to three years to implement the change from office to residential. Areas that are currently exempt from the permitted development right – including the City of London and Manchester city centre – will have until May 2019 to make an Article 4 direction if they wish to retain their exemption.

The Government has also announced that the permitted development right will be extended to allow the demolition of office buildings and their replacement with a new building for residential use. In addition, new permitted development rights will enable the change of use of light industrial buildings and launderettes to residential use. The Government has said that it will publish further details in the coming days.

Intervention by the Secretary of State in the preparation of Local Plans

The Housing and Planning Bill includes new powers to allow the Secretary of State to intervene in the preparation of Local Plans. Existing legislation already allows the Secretary of State to prepare or revise a development plan document and approve it, but the proposed new legislation will enable the Secretary of State to direct a local planning authority to prepare or revise a document.

More significant is the Prime Minister's announcement that where local authorities fail to produce and bring into force an up to date plan for new homes by 2017 the Government will work with local people to ensure one is drawn up. We await an announcement on what that means in practice, but it's worth bearing in mind that the local people with whom the Government says it will work to prepare new plans are the same people who are often resistant to the development of new homes – and who have therefore been one of the main obstacles to putting a plan in place.

It's also notable that the Prime Minister referred to a 'plan for new homes', but it seems unlikely that a plan could be prepared which deals solely with housing. Again, we await an announcement from the Government.

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Starter Homes

The Housing and Planning Bill also includes a new duty to promote the supply of starter homes through the planning process. A starter home is defined in the Bill as a new dwelling which is only available for purchase by first-time buyers aged under 40 years old and which is made available at a price which is at least 20% less than the market value.

More specifically, the Bill includes a provision that would allow the Government, through secondary legislation, to require that in all proposals for residential development above a certain size there must be a proportion of starter homes. The aim is to ensure that starter homes become a common feature of new residential developments across England, though it seems certain that this will be at the expense of affordable homes for rent.

'Planning permission in principle'

The Housing and Planning Bill provides for a new 'planning permission in principle', with full planning permission then granted following the approval of an application for 'technical details consent'.

The Bill indicates that it will be possible to secure a 'planning permission in principle' in two different ways. First, through plans and registers, whereby land allocated in a proposed brownfield register, in development plan documents and in neighbourhood plans will be granted 'planning permission in principle'. That will be subject to the land satisfying the requirements of secondary legislation, in the form of a development order.

That order will set out the type of development that will be granted permission in principle (with the Government's current intention being that it will be limited to housing) and the amount of development for which 'planning permission in principle' may be granted, as well as any locations that will be excluded.

The second way in which the Bill proposes that it will be possible to secure 'planning permission in principle' is through an application. Existing secondary legislation will be amended to identify the type of development for which it will be possible to secure 'planning permission in principle' through an application (which the Government currently proposes to housing development of fewer than ten units) and any locations that will be excluded.

The Government's intention is that local planning authorities will be required to either grant or refuse direct applications for 'planning permission in principle', and where they grant 'planning permission in principle' they will not be able to impose conditions.

WHAT HAPPENS NEXT?

Making the existing office to residential permitted development right permanent will simply require secondary legislation, and we expect that shortly. However, the new 'demolition and rebuild' permitted development right will need to be founded on the proposed primary legislation in the Housing and Planning Bill, and that will take several months to make its way through the Parliamentary process. The same is true of the Starter Homes and 'planning permission in principle' initiatives. Some intervention in the preparation of Local Plans will be possible without legislation, but we await an announcement on what form that might take.

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