

**Changes to the
Development
Control System**

DLP BRIEFING NOTE 35

Prepared by
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RECENT AND PROPOSED CHANGES TO THE DEVELOPMENT CONTROL SYSTEM

Since 1st October a number of changes have either come into force or have been proposed by the Government for the development control system.

(i) GDPO now DMPO

In September 2010 we issued a Briefing to inform clients that the General Development Procedure Order (GDPO) was to be replaced with the Development Management Procedure Order (DMPO). On 1st October 2010 this change came into effect.

In practical terms, this affects the way in which applicants and appellants serve notice on landowners of impending planning applications and appeals. The former Section 65 Notice has been amended, although the Notice requirements remain the same. Under the DMPO, Notice is required to be served under the terms of the 2010 Order pursuant to the relevant Article:

- Article 9 for Non-Material Amendments
- Article 11 for Planning Applications
- Article 32 for Appeals

Service of a Notice under the incorrect Article might leave open the prospect of review by the courts and render any related decision on a planning application/ appeal, a nullity.

(ii) Consultation: Changes to Planning Application Fees

On 15th November 2010, the Government published the consultation document ***Proposals for Changes to Planning Application Fees in England: Consultation***. This sets out proposed changes to the planning applications fee regime which would decentralise responsibility for setting fees to local planning authorities. The consultation period ends on 7th January 2011.

Independent research commissioned by the previous Government highlighted that some local authorities were not recouping the costs of processing applications through planning applications fees, whilst others were recovering more than the actual processing cost. The research also found that up to 35% of development management resources were being allocated to dealing with applications which currently do not incur a fee.

It is proposed that, by letting local planning authorities set their own fees, Councils will be able to recoup their costs in full. Local authorities will not be permitted to make a surplus from planning application fees. The consultation also suggests that setting fees locally will provide a stronger incentive for local planning authorities to run a more efficient service, as it will be a more transparent system, directly accountable to local residents.

The proposals would also allow local authorities to:

- Apply fees to resubmitted applications, where previously these would be entitled to a “free go” if submitted within 12 months of a refusal; and
- Set higher fees for retrospective applications.

Applications for Listed Building consent, Conservation Area consent, and works to trees subject to a TPO currently do not incur a fee, and this is not proposed to change.

(ii) New Homes Bonus

Based on the Government's intention of incentivising local authorities to promote and allow higher levels of new house building and economic growth, a consultation paper on the **New Homes Bonus** has also been published. The consultation period ends on 24th December.

In its 'Coalition Agreement', the Government set out its commitment to:

"provide incentives for local authorities to deliver sustainable development, including for new homes and businesses"

The Government has stated that it will not tell local authorities what type of development or homes they should build or where, but instead will reward communities where growth takes place. The 'New Homes Bonus', it is advised, will:-

"return power back to local communities and allow them to decide where and how housing development occurs in their area whilst ensuring that the benefits of growth are returned to those communities"

The Bonus will be applied to each additional property built, and will be equal to the national average for the applicable Council tax band. This will be paid for each of the following 6 years as an 'unringfenced' grant. Local authorities will be free to decide how to spend the funding, in line with local community wishes, and the government expects councillors to work closely with their communities to understand their priorities for investment.

It is currently proposed that the 'tier-split' for the New Homes Bonus will be 80% lower tier and 20% upper tier for authorities outside of London. Within London, the London Borough would receive 100%.

An enhancement of the New Homes Bonus is proposed for affordable homes, at the flat rate of £350 per annum for each additional affordable home. Affordable housing will include the new 'affordable rent' homes which will be offered at a level between social rents and local market rents - more details on this will be published shortly. The affordable housing definition will also include pitches on Gypsy and Traveller sites owned and managed by local authorities, or registered social landlords.

Finally, where local authorities bring empty properties back into use these too would qualify for the New Homes Bonus.

(iii) National Planning Framework

Communities secretary Eric Pickles has announced his intention to issue a new National Planning Framework (NPF) by April 2012. This framework would be:-

"radically simplified and consolidated with a strong presumption in favour of sustainable development".

The NPF will replace the detailed regional plans, which are to be abolished, but will be far less prescriptive. The Framework will also include the creation of elected mayors in 12 major cities, with a significant transfer of power to areas that opt for this.

Formal consultation on the NPF is timetabled for early 2011, with Housing Minister Bob Neill stating that it will be regarded as a "high priority".

If you would like to hear more about these changes, or discuss the possibility of DLP making a representation on either of the consultation documents on your behalf, please do not hesitate to contact us.

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