

**Planning
Legislation
Update**

DLP BRIEFING NOTE 105

Prepared by
DLP Planning Ltd

03/08/2012

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DLP Planning Ltd

Bedford
Sheffield
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Planning Legislation Update

This note has been produced to provide you with an update of planning legislation. There are seven key updates that you should be aware of within this note; they cover a range of issues, from environmental and heritage to changes in planning fees.

If you require any more information regarding the changes in policy and the impact to you we at DLP would be happy to provide advice.

1. Robust Policy Implementation When Deciding on Flood Risk Development Urged

Key Facts

- Development in the floodplain in England has increased by 12% over the past ten years compared with a 7% increase elsewhere.
- Around 21,000 dwellings and business premises (13% of all new development) have been built on floodplains every year over this time period.
- One in five properties built in the floodplain were in areas of Significant Flood Risk.
- The current "build and protect" approach is thought to leave a legacy of rising costs of protection and flood damage in the face of climate change.
- Planning policy should ensure that development is well protected from flooding and in line with Environment Agency advice.

There is concern that the approval process is not sufficiently transparent or accountable over flooding issues. This is backed up by a review of 42 of the most up to date local development plans that found mixed evidence on whether or not local authorities were transparently:

- Assessing the potential for accommodating growth elsewhere before deciding to allocate land for development in the floodplain; or
- Accounting for the long-term costs of flooding with climate change, both in terms of the increasing costs of flood damage and any additional costs of flood protection.

2. Statutory Consultee Performance and Award of Costs Consultation Issued

The Government is announcing clarifications to the guidance in Circular 03/09, in relation to local councils, their development plan and in ensuring evidence submitted at appeal is manifestly accurate and truthful.

Requirements of the Statutory Bodies

The Government is requiring the five main statutory bodies to report on, and be accountable for their performance on dealing with planning applications. Statutory consultee's should also take more responsibility for the advice they give.

Changes Being Made

Action: Consultation on amending guidance in the Award of Costs Circular.

Reason: To provide an appropriate level of responsibility for the Statutory Consultees when they comment on applications.

Action: Clarification on the guidance in the Awards of Costs Circular.

Reason: Councils should not be liable for an award of costs against them if they refuse a planning application that is contrary to a development plan where no material considerations exist.

Over all Aim: There should be clearer, stronger advice from statutory consultee's to local authorities and applicants resulting in quicker, more efficient and fully justified decisions from local authorities. *There is no aim to increase the incidence of costs awards or appeals.*

3. English Heritage Good Practice Guide for Local Heritage Listing Issued

This is the first guide of its kind. It describes how Local Heritage Listing, backed by the NPPF, can help to recognise local distinctiveness and character to ensure these values are taken into account when changes affecting the historic environment are proposed.

It allows local people to identify local heritage and is also an opportunity for local authorities and communities to work in partnership.

Historic Environment Records will provide a clear and easily assessable resource for searching for listed sites. The aim is that it will be managed at LPA level to keep it up to date.

4. Infrastructure Planning Waste Water Transfer and Storage Order Issued

Regulation 2

Extends the categories of infrastructure projects which are nationally significant for the purposes of the 2008 Act by adding to them, subject to section 29 of the 2008 Act.

The additional categories are: The construction or alteration of infrastructure for the transfer or storage of waste water.

The categories are limited by an insertion in section 29 which provides criteria for determining whether any particular project, for the construction or alteration of such infrastructure is to be treated as a nationally significant infrastructure project.

Regulation 3

Makes supplementary provision in relation to ongoing infrastructure projects that as a result of the amendments to the 2008 Act made by this Order become treated as nationally significant.

2008 Act Amendment

The 2008 Act is amended by Section 128 of the Localism Act 2011 which abolishes the Infrastructure Planning Commission, and Schedule 13 transfers its functions to the Secretary of State.

5. NPPF Final Stage Impact Assessment Issued

The final stage impact assessment covers the total estimated impact of the NPPF.

It is composed of two parts:

Part A: Covers the consolidation and streamlining across national planning policy.

Part B: Discusses the specific changes across the document.

The Overall Objectives in Introducing the Framework Are

- To consolidate and streamline national planning policy.
- Reduce bureaucracy.
- Strengthen local participation.
- Help achieve sustainable development.

The assessment states that the benefits can only be realised if Local Plans are up-to-date, make adequate provision for sustainable development and provide a clear basis for investment and planning decisions.

The Planning System Can Be a Barrier to Sustainable Development If:

Local Plans are not in place or up-to-date, resulting in inadequate land identified for

- Development and uncertainty for developers and investors.
- Plans do not provide adequately for the sustainable development needed.
- Individual planning decisions do not respond to economic, social and environmental needs or take sufficient account of the benefits of development.
- Out-of-date plans can lead to 'planning by appeal'. Resulting in less development or development that is less acceptable to communities, due to the increased costs.

6. Planning Fee Increase of 15% Proposed

Draft regulations have now been laid before Parliament which proposes to increase planning application fees by approximately 15%.

Residential development Proposals

	Charge Rate				Cap Points
	Current		Proposed		
OUTLINE APPLICATIONS	Fixed Sum	Per 0.1h	Fixed Sum	Per 0.1h	
Outline Applications up to 2.5h	N/A	N/A	£0	£385	N/A
Outline Applications in excess of 2.5h	£8,285	£100 (Over 2.5h)	£9,527	£115 (Over 2.5h)	£125,000

FULL APPLICATIONS	Fixed Sum	Per Dwelling	Cap Points
Full applications (up to 50 dwellings)	N/A	£385	N/A
Full applications (above 50 dwellings)	£19,049	£115	£250,000
Enlargement or improvement of a dwelling	N/A	£172	£339 for 2 or more dwellings

Deemed Application Fees

It is proposed that these are paid wholly to the LPA as compared to half to the LPA and half to Secretary of State as under the current regime.

The results of the consultation exercise on the proposal to decentralise the fixing of planning application fees and to allow LPAs to set their own levels is expected to be published in the near future.

7. Streamlining Information Requirements for Applications Consultation Issued

This consultation seeks views on two sets of changes to secondary legislation and one change to the standard application form:

- **Proposal A** - Reduce the nationally-prescribed information requirements for outline planning applications.
- **Proposal B** - Strong encouragement for local planning authorities to keep their local information requirements under frequent review.
- **Proposal C** - Amalgamate standard application form requirements for agricultural land declarations and ownership certificates.

This consultation does not propose changes to the following:

- Primary legislation.
- The basic information requirements for planning applications.
- Design and Access Statements.
- Local planning authority powers to decline to determine an outline application.
- Requirements in respect of other regulations such as EIA's.

Bedford (Planning)

4 Abbey Court
Fraser Road
Priory Business Park
Bedford
MK44 3WH
T 01234 832 740
F 01234 831 266

Bedford (Design)

5 Abbey Court
Fraser Road
Priory Business Park
Bedford
MK40 3LG
T 01234 261 266
F 01234 347 413

Bristol

2A High Street
Thornbury
Bristol
BS35 2AQ
T 01454 410 380
F 01454 410 389

Cardiff

Sophia House
28 Cathedral Road
Cardiff
CF11 9LJ
T 029 2064 6810

London

1st Floor Holborn Gate
330 High Holborn
London
WC1V 7QT
T 020 7849 6979
F 020 7203 6701

Sheffield

11 Paradise Square
Sheffield
S1 2DE
T 0114 228 9190
F 0114 272 1947

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BEDFORD

DLP Planning Ltd
4 Abbey Court
Fraser Road
Priory Business Park
Bedford
MK44 3WH

t 01234 832 740

f 01234 831 266

bedford@dlpconsultants.co.uk

DLP Design Ltd
5 Abbey Court
Fraser Road
Priory Business Park
Bedford
MK44 3WH

t 01234 261 266

f 01234 347 413

bedford@dlp-design.co.uk

BRISTOL

DLP Planning Ltd
DLP Transportation Ltd
2A High Street
Thornbury
Bristol
BS35 2AQ

t 01454 410 380

f 01454 410 389

bristol@dlpconsultants.co.uk

CARDIFF

DLP Planning Ltd
28 Cathedral Road
Cardiff
CF11 9LJ

t 029 2064 6810

cardiff@dlpconsultants.co.uk

LONDON

1st Floor
Holborn Gate
330 Holborn Gate
London
WC1C 7QT

t 020 7849 6979

f 020 7203 6701

london@dlpconsultants.co.uk

SHEFFIELD

11 Paradise Square
Sheffield
S1 2DE

t 0114 228 9190

f 0114 272 1947

sheffield@dlpconsultants.co.uk

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