

REPORT TO PLANNING AND DEVELOPMENT COMMITTEE

26th August 2020

TITLE OF REPORT: New Planning Legislation

REPORT OF: Anneliese Hutchinson, Service Director, Development, Transport and Public Protection

Purpose of the Report

To update Planning and Development Committee about several recent changes to planning legislation

Background

The Government has introduced a number of changes to Planning legislation. Many of these changes are the Government's further response to the challenges posed by COVID-19, and the need to ensure that the system can continue to operate effectively and support the recovery. The Government has also published a White Paper to consult on proposals for wider reform of the planning system in the near future, and I will produce a further Planning Update Report on this in due course.

Business and Planning Act 2020

The Business and Planning Act received Royal Assent on 22 July 2020. It introduces a series of urgent, mostly temporary, measures intended to help businesses, particularly in the hard-hit hospitality and construction sectors, to get back to work safely and quickly.

Outdoor Seating

This act sets out a new process to apply for a pavement licence to enable the business to place furniture such as stalls, tables and chairs on the pavement outside their premises, enabling them to maximise their capacity whilst adhering to social distancing guidelines. This licence would replace any planning permissions that would normally be required. Please note that this does not apply to the placing of furniture on land not adopted as a pavement including car parks or grounds which would still be subject to any normal planning requirements.

Extending Planning Permissions

This provides for an applicant to extend their planning permissions and listed building consents which have lapsed or are due to lapse between 23 March and 31 December 2020. This extension will be to 1 May 2021.

The extension will apply automatically for permissions and consents which are extant in between the measures coming into force on 19 August 2020 and 31 December 2020. Any planning permissions which have lapsed since 23 March 2020 can be reinstated and extended subject to an Additional Environmental Approval.

Construction Site Hours

The Business and Planning Act 2020 has introduced measures to provide for a temporary, fast track deemed consent route for developers to apply to local planning authorities to vary existing conditions, or the details submitted under a condition, that limit construction site working hours. This measure came into force on 28 July 2020.

Under this legislation, Local authorities have 14 calendar days to consider such applications or consent is automatically granted.

If an application is approved, this will temporarily amend planning restrictions on construction working hours to allow work on site until 9:00pm until 1 April 2021.

Changes to other legislation

In addition to the Business and Planning Act, the Government have published other changes to existing planning Legislation.

Use Class Reform

The Use Classes Order has been changed to make it possible for high street uses to change use without the need for a planning application. This will create a new broad category of 'commercial, business and service' uses. This will bring all commercial, retail and leisure uses (previously classes A1 (retail), A2 (financial/professional office) and A3 (Café/restaurant), B1 (Business), D1 (non residential institutions such as medical/creche/museum) and D2 (entertainment and leisure)) under one single use class - Class E and will allow these uses to change to any other E use without requiring planning permission.

A new community and learning class (Class F1) and local community shops (Class F2) will allow for the protection of community facilities. Certain uses such as pubs and theatres, hot food takeaways or betting shops will require full planning consent to change to or from these uses.

These new use classes come into force on 1 September 2020.

Permitted Development Rights

The Government have published changes to the permitted development rights which allow development without the need for a planning application. In some cases, a prior approval application is required where the Council can only consider limited aspects of the proposal.

Building Up

New permitted development rights are being introduced to allow the extension of buildings upwards to create new homes and living space. Regulations introduced on 24 June allow purpose-built freestanding blocks of flats of three storeys or more to extend upwards by up to 2 additional storeys to create new homes, up to a height of 30m. This right comes into force on 1 August 2020.

A second phase of new permitted development rights to build upwards allow up to 2 additional storeys on free standing blocks, up to a height of 30 metres, and on buildings in a terrace (of 2 or more buildings) in certain commercial uses.

They also allow up to 2 additional storeys on existing houses, detached or in a terrace, to create new self-contained homes or additional living space up to a height of 18 metres. Single storey homes will be able to add 1 additional storey.

There are conditions and a number of prior approvals are still required including on specific matters including the external appearance of the proposed development and its impact on the amenity of neighbours. The regulations come into force on 31 August 2020.

Demolition and Rebuilding as Residential

The Government have introduced a new permitted development right to allow vacant and redundant free-standing commercial and light industrial premises, and residential blocks of flats, to be demolished and replaced with new residential units. At the same time the right will allow up to 2 storeys to be added to the height of the original building, to help create more homes, as long as the resulting residential building is no higher than 18 metres.

There are conditions and the right is subject to prior approval by the local planning authority. The regulations come into force on 31 August 2020

Markets

The Regulations also introduced time-limited measures to support businesses as coronavirus restrictions are lifted. These allow a local authority to use land to hold a market and erect moveable structures on it for an unlimited number of days until 23 March 2021, and provide an additional 28 days for the temporary use of land for any purpose (or 14 days for use as a market or for car and motorcycle racing) between 1 July 2020 and 31 December 2020.

Conclusion

Committee will note the changes in the regulations are quite detailed and will likely be confusing to some residents and businesses. Permitted development rights have widened and the prior approval procedure has also been widened to capture a greater breadth of development categories than currently exist.

All the measures are designed to encourage development and reduce red tape however all are subject to important conditions, caveats and approval stages that may be complicated for those seeking approval.

Importantly, at this stage, the Council will not receive a fee for some of the proposals and are yet to see the fee schedule (at the time of writing). This will have implications on income but will not reduce workload substantially for the Local Planning Authority including consultation costs and evaluation of key material planning considerations.

The Development Management team are focusing on organising internal processes, consultation methods and forms etc to be ready for the changes.

Recommendation

It is recommended that the Committee note the report for information.

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1. FINANCIAL IMPLICATIONS

The increase in permitted development rights means there is no need for planning permission for a wider range of floor sizes and therefore less income from planning fees. The removal of the need to make planning applications will be a saving to business who will make some savings using the prior approval process due to the narrow issues such applications can be considered against. No fees have been released as yet for the prior approval process. The proposals do not substantially decrease the workload of the authority including the consultation requirements.

2. RISK MANAGEMENT IMPLICATIONS

Nil

3. HUMAN RESOURCES IMPLICATIONS

Nil

4. EQUALITY AND DIVERSITY IMPLICATIONS

Nil

5. CRIME AND DISORDER IMPLICATIONS

Nil

6. SUSTAINABILITY IMPLICATIONS

Nil

7. HUMAN RIGHTS IMPLICATIONS

Nil

8. WARD IMPLICATIONS

This applies to all wards.

9. BACKGROUND INFORMATION

The Business and Planning Act 2020 [LINK](#)

Pavement Licences Guidance [LINK](#)

Construction hours applications Guidance [LINK](#)

The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 [LINK](#)

The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020 [LINK](#)

The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020 [LINK](#)

The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 3) Order 2020 [LINK](#)