



# Extending 'permitted developments' for homeowners and businesses

The government has made clear its belief that the current planning system is a brake on economic development and has set in train a number of proposals aimed at reducing regulation or 'red tape'. Earlier this month the government launched consultation on its proposals to waive the need for planning consent for three years on some householder and business extensions. This briefing summarises the proposals and analyses their possible impacts in the capital.

## Background

The government announced on 6 September that it would seek to stimulate the economy by making it easier for householders to undertake extensions to their homes, within specified limits. It is proposing that, for three years, some householder extensions that currently require planning permission will constitute 'permitted development', and so will not need planning consent from the local authority. On 12 November government published the consultation on these proposed changes, which also seeks views on reducing planning controls on certain types of business extensions and also the placing of broadband infrastructure in the public realm.

The government has consistently stated its concern that the planning system is an impediment to economic growth. It has already considerably reduced the amount of national planning policy guidance (see London Councils member briefing no.103) and has proposed several other specific changes to the system, including, among other things: making it easier to convert commercial premises to residential ones; allowing developers to require renegotiation of planning obligations for more developments; amending the Use Class Order system (see London Councils member briefing no. 136); changing the regulations around listed building consent and amending planning appeal procedures.

On 6 September the government set out a range of measures that it believes will stimulate housebuilding and economic recovery. Several of these related to changes to the planning system. On 12 November DCLG published a consultation on one of these, which was a proposal to increase the thresholds governing homeowners' ability to build extensions without needing planning permission (such work is called 'permitted development'). The consultation, which also suggests extending certain permitted development rights to businesses, is open until 24 December.

## Overview

Five specific proposals are being consulted on, all of which are proposed to last for three years, except the final one, which is proposed to last for five<sup>1</sup>:

- Increasing the size limits for the depth of single storey domestic extensions from 4m to 8m for detached houses, and from 3m to 6m for all other houses (this would include conservatories). No changes are proposed for extensions of more than one storey
- Doubling the size limits for extensions to shops and professional services establishments to 100m<sup>2</sup>, and allowing the building of these extensions up to the boundary of the property (except where it is with a residential property)
- Increasing the size limits for extensions to offices to 100m<sup>2</sup>
- Increasing the size limits for new industrial buildings within the curtilage of existing industrial premises to 200m<sup>2</sup>
- Removing some prior approval requirements for the installation of broadband infrastructure

In addition, the government is seeking to explore whether there is scope to use permitted development to make it easier to carry out garage conversions, specifically in order to allow the housing of immediate relatives.

The consultation states that around 200,000 homeowner planning applications are submitted each year, and that 90 per cent are approved, in almost all cases by officers under delegated authority. It suggests that the application process adds cost and delays but little value. The proposals would remove some 40,000 applications from needing to be made, but 160,000 would still be considered through the planning system, including the larger and more complex ones.

The government estimates that 20,000 new extensions would generate £600 million of construction output, supporting 18,000 jobs. The benefit of not making an application is estimated at £2,500 for each family. The amount saved for businesses is not set out.

There are still protections against the proposals. They would not apply in National Parks and other protected areas, including conservation areas, and the requirement for separate listed building consent would still apply where relevant. Householder extensions would not be able to cover more than 50 per cent of the curtilage of the house, or exceed 4m in height, and any extensions with an eaves height of more than 3m must not be within 2m of the boundary. Business extensions that currently cannot increase gross floor space by 25 per cent are proposed to have this raised to 50 per cent. The same increase is proposed for industrial premises, but they would not be allowed to be more than 5m high within 10m of the boundary or be within 5m of the boundary.

For all extensions, building regulations, the Party Wall Act and the 'right to light', and the NPPF policies in relation to 'garden grabbing' will still apply, and the consultation makes clear that local authorities may use Article 4 directions to protect local amenity or the wellbeing of an area (see below). Additionally, the consultation explicitly states that the proposals do not grant permitted development rights for separate residential outbuildings, ie 'beds in sheds'.

### Delivery of Superfast Broadband

The consultation proposes a specific change to aid the delivery of superfast broadband. Under part 24 of the 1995 General Permitted Development Order (GPDO), fixed broadband apparatus can be installed as permitted development, although such installation is subject to a prior approval process on 'article 1(5)' land (i.e. National Parks, conservation areas, the Broads and certain other areas), which allows local planning authorities to consider the siting and appearance of communications apparatus before development commences.

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<sup>1</sup> These changes are relevant to Parts 1, 8, 24, 41 & 52 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) which sits under the Town and Country Planning Act 1990

The government is proposing to remove this prior approval process, although it will ask relevant operators to work with local planning authorities to agree good practice relating to the time and manner of roll-out, and to siting and design principles.

The proposed changes would come into force when the relevant secondary legislation was altered, and any development undertaken in light of those changes would have to be complete by three years after this date (or five years for broadband).

## Commentary

A number of local authorities within and without London have already expressed considerable concern over these proposals. After they were announced on 6 September, Richmond-Upon-Thames announced its opposition to the policy, soon followed by Sutton and Lincolnshire, which included the planning Minister's constituency. The Liberal Democrats have voted against the proposals at their conference, and the LGA has warned of the dangers of 'inappropriate and out of place development' caused by the policy. The Daily Mail and Daily Telegraph have also voiced strong opposition to the plans. Concern from all the above has focused on the impact on neighbours of uncontrolled and unsightly extensions.

The consultation states that the planning application process adds little value in 'many cases'. However, as a check to ensure that inappropriate extensions are not being built, it could be said that the planning process adds very real value for those who might otherwise be adversely affected by unsuitable building works. It also says that the application process adds 'costs and delays' – however, when the £150 planning application fee is set against both the overall cost of building works and the financial benefit that the householder gains from the increase in value added to the home, the cost is a very small factor and in all probability doesn't put off many potential applicants.

Equally, while the consultation notes the average cost of professional drawings and work to support an application to be over £2,000, it is not likely that this much would be saved in practice. Architectural drawings are not produced simply for a planning application but are rather a guide to the work that needs to be undertaken, and not making such plans could in fact lead to more costly remedial work in the longer term. The possibility of delay may dissuade some applicants, however the majority of boroughs decide the vast majority of such 'minor' applications within eight weeks, so even this delay is not likely to be significant.

There are also widespread concerns that this proposal will not create the economic growth the government hopes. The consultation states that there would be significant economic benefits. However, it is not clear on what basis it has judged that extra extensions to homes and businesses will be undertaken as a result of the policy change. If no more extensions occur than would otherwise have been the case, but instead 40,000 (the number of potential beneficiaries of the proposals suggested in the consultation document) extensions are built that would otherwise have needed planning permission but that don't now need it, then the economy would not gain from any extra building work. Further, building work is notorious for being cash in hand and therefore outside the scope of the HMRC, and so the value attributed to the economic effect may not in fact fully materialise.

In addition to the above, there are emerging concerns that the effective abolition of any control over extensions could exacerbate the current problem of 'beds in sheds' in London, (see London Councils member briefing no.157) and could appear to conflict in some measure with the DCLG's other priority to reduce their number. While the consultation is keen to point out that there is no permitted development right being granted to such buildings, removing even the limited amount of planning oversight on garden extensions may make the monitoring of the problem much harder to undertake.

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There will be impacts on planning departments, too. Nationally-set planning fees cover on average only between 30 per cent and 70 per cent of the cost of providing a planning service in London, and householder application fees are in effect subsidised by fees on other planning services that make less of a loss. In the absence of planning departments being allowed to set realistic fee levels that actually cover the cost of providing the service, granting permitted development status to more householder applications may reduce the subsidy required to process such applications, saving boroughs money. However, there may also be a cost impact for boroughs in mediating between neighbour disputes and enforcing planning policy if the policy results in unsightly and inappropriate development, so it may end up costing boroughs more than it saves.

The government has responded to local councils' concerns about the policy by suggesting that they can use 'Article 4' measures to withdraw the development rights granted by the policy. However, these measures are time-consuming and bureaucratic to implement, with long a lead-in time and the possibility of having to pay compensation to those whose rights have been curtailed. With the Secretary of State, Eric Pickles, suggesting that such people may wish to sue their council if it introduces Article 4 measures<sup>2</sup>, this may not seem to be an easy or attractive option for boroughs to pursue.

The consultation's desire to liberalise the planning regime for broadband infrastructure would affect conservation areas in London. Boroughs at present have very little power to oppose the placing of visually offensive and unsafe (in terms of clear sightlines for road users) broadband apparatus, and there have been documented cases recently of poor practice by contractors, who have submitted poorly drafted, retrospective and often (unintentionally) misleading documentation to local planning authorities about their planned works. Removing what little power boroughs currently have over broadband apparatus placing in conservation areas will do little to improve local community acceptance of such infrastructure, and undermines the government's stated localist desires, as well as potentially posing practical problems for road users and boroughs seeking to minimise street clutter.

In conclusion, London Councils has a number of initial concerns about the government's proposals, and will be submitting a response to the consultation. The proposals at present are potentially divisive and are highly likely to end up adding to borough costs rather than reducing them, while not adding as much to local economic growth as the government hopes. Equally, suggested protections may not be as easy or appropriate as envisaged. The removal of what little planning protection there is for broadband apparatus may equally also have adverse impacts on road safety and visual amenity of streets in conservation areas.

<sup>2</sup> The Daily Mail 24 September 2012

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## Links:

[Consultation on Extending Permitted Development Rights for Homeowners and Businesses \(DCLG website\)](#)

## This member briefing has been circulated to:

**Portfolio holders and those members who requested policy briefings in the following categories: Planning**