

Planning Policy Under the New Government:

Government Planning Reforms

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outline


- Changes to law and policy
 - inc. the NPPF and NPPG
- Housing changes:
 - Starter Homes
 - Affordable housing and less than 10 units
- Section 106 changes
- Performance targets

Where we were

- The last Government made some major reforms to the planning system:
 - the Localism Act 2011
 - the National Planning Policy Framework 2012
 - Growth and Infrastructure Act 2013, and
 - Infrastructure Act 2015,
- aimed at speeding up the planning system, and boosting the economy (and housing).

Where we are going

- the Queen's speech on 27 May 2015:
 - a Housing Bill
 - statutory register for brownfield land
 - Target for Local Development Orders in place on 90% of suitable brownfield sites by 2020.
 - changes to neighbourhood planning law; and
 - an Energy Bill,
 - inc. remove certain onshore wind farms from the nationally significant development consent process.
- Policy changes ...




July 2015 Productivity Plan



Fixing the foundations:

Creating a more prosperous nation



July 2015 Productivity Plan

9: Planning freedoms and more houses to buy


The UK has been incapable of building enough homes to keep up with growing demand. This harms productivity and restricts labour market flexibility, and it frustrates the ambitions of thousands of people who would like to own their own home. The government will:

- introduce a new zonal system which will effectively give automatic permission on suitable brownfield sites
- take tougher action to ensure that local authorities are using their powers to get local plans in place and make homes available for local people, intervening to arrange for local plans to be written where necessary



July 2015 Productivity Plan: ch.9

- Local plan intervention by the Secretary of State;
- zonal system for brownfield land creating automatic permission for housing;
- tighter performance regime (50%) designed to encourage faster application processing times;
- allow major infrastructure projects with “an element” of housing to be considered as part of the Planning Act 2008 DCO regime
- proposals for s.106 dispute resolution process

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- Further in ch.9:
 - Compulsory purchase reform
 - devolution of major new planning powers to the Mayors of London and Manchester
 - extend the Right to Buy
 - 200,000 Starter Homes to be built by 2020
 - Still possible:
 - extend the temporary pd right to convert office space into residential dwellings

NPPF ?

National Planning Policy Framework ('NPPF')



- Government Response to the CLG Select Committee Inquiry into the Operation of the NPPF (Feb 2015)
 - No real changes
- & continuing on from previous consultation:
 - NEW policy for gypsies & travellers (August 2015)

Amending policy

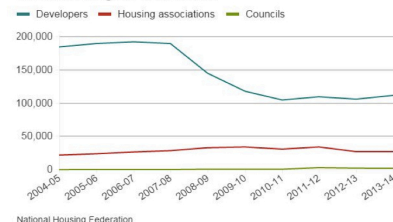
- By using PPG ?
- *West Berkshire Council and Reading BC v SoS* [2015] problem
 - Quashed use of PPG to impose:
 - Exemption for schemes of 10 units (or 1,000 sq m) or less from affordable housing requirement.
 - the Vacant Building Credit
 - Now still possible through development plans?
- Announcement of Local Plan review panel

- "I want to see a million homes built during in the next five years, and then I want more."

- Greg Clark MP, Secretary of State, speech to NHF, Sept 22, 2015

Housing, housing, housing

Who is building our new homes?





housing measures

- Appeals, and §14 of NPPF
- NPPF and 5 year housing land supply of deliverable sites
- Objectively Assessed Needs assessments
- SHMAs and SHLAAs
- Local plan targets
- Duty to co-operate



Starter Homes

- “Starter Homes exception sites”, DCLG Guidance, March 2015
- ambition now to get 200,000 Starter Homes built by 2020 (was 100,000 in March !)
- In effect, presumption in favour of Starter Home developments on ‘exception sites’
- Rural exceptions sites added as well
- Local plan category as well



Starter Homes

- expected to be on land that has been in commercial or industrial use, and which has not currently been identified for residential development
 - “Where applications for Starter Homes come forward on such exception sites, they should be approved unless the LPA can demonstrate that there are overriding conflicts with the NPPF that cannot be mitigated”




Starter Homes

- offered for sale at a minimum of 20% below its open market value of the property
- offered to people who have not previously been a home buyer and want to own and occupy a home, and who are below the age of 40 at the time of purchase
- s106 restrictions to ensure that Starter Homes are not re-sold or let at their open market value for 5 years following the initial sale.



Starter Homes


- Funding ? by exempting starter home initiatives from planning levies:
 - section 106 contributions for other affordable housing, and
 - tariff-style general infrastructure funds,
- Needs change to CIL Regulations
- Intermediate Affordable Housing ?

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- Right to buy
 - Housing association chiefs and Tories propose right-to-buy deal



Planning obligations

- consultation, "Section 106 planning obligations - speeding up negotiations",
 - published on 20 February 2015
 - Govt Response, 25 March 2015
 - Seen in the NPPG changes already
 - promoting the use of standard clauses and
 - promoting greater use of pre-application engagement by all parties.
- Productivity Plan, July 2015: ...

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- set clear time limits so s.106 negotiations are completed in line with existing 8-13 week target for planning applications;
 - requiring parties to start discussions at the beginning of the planning application process;
 - dispute resolution process where negotiations stall preventing development;
 - using standardised documents to avoid agreements being drafted from scratch for each and every application;

- S.106 and CIL in operation
 - Evidence that (reg.122(2)):
 - (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.
 - Reg.123 list and CIL Charging Schedule
 - “Rule of 5”
- Standard clause being used in s106 ...

Standard clause in s106

- “All the obligations in this Agreement are conditional upon the Secretary of State (through his inspector or otherwise) granting the Permission and if the Secretary of State and/or his inspector finds in his decision that pursuant to Regulation 122(2) of the CIL Regulations any of the specific obligations contained in this Agreement are not necessary or properly related to the Development or do not comply with Regulation 123(3) of the CIL Regulations such obligations or part thereof shall cease to have effect and the Owner and the Developer shall be under no obligation to comply with them and they shall not be enforceable by the local planning authority”

- Performance Targets**
- Planning Court
 - Planning Inspectorate
 - Local Planning Authorities:
 - Tightening the planning performance regime so that LPAs making 50% or fewer of major decisions on time are at risk of designation
 - Developer can then apply to SoS directly
 - legislation to extend the regime to include minor applications ?

