

## The Coalition's housing and planning reform package: focus on planning

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### Overview

The government has announced [a set of planning and housing measures](#) as part of its overall efforts to stimulate the economy.

The key planning announcements include:

- an instruction to local planning authorities to renegotiate section 106 obligations relating to affordable housing in some circumstances
- a time-limited relaxation of permitted development rights
- possible 'special measures' for poor performing local planning authorities.

This briefing is relevant for planning portfolio holders, senior corporate decision-makers and planning officers.

### Briefing in full

David Cameron, Nick Clegg and Eric Pickles have announced [a set of measures](#) to help the government to do 'all it can to kickstart the economy'.

The package includes:

- giving developers the right to drop 'costly' section 106 affordable housing requirements if they can prove that this makes the development commercially unviable
- introducing the Infrastructure (Financial Assistance) Bill – published yesterday (6 September) – so that the government can guarantee up to £40 billion worth of major infrastructure projects and up to £10 billion of new homes, and guarantee the debt of housing associations and private sector developers
- an extra £300 million to build up to 15,000 affordable homes and to bring 5,000 empty homes back into use
- an additional 5,000 homes for rent at market rates
- a £280 million extension of the FirstBuy scheme
- a time limited relaxation of permitted development rights
- a threat to put poor performing local planning authorities (LPAs) into what the government calls 'special measures' and to have their planning decision responsibilities transferred to the Planning Inspectorate (PINS)
- thousands of big commercial and residential applications to be directed to a major infrastructure fast track (according to the Downing Street announcement, although this was not elaborated on or made clear by the DCLG written statement)
- proposed consultation on how to speed up planning appeals.

There were also related announcements on building in the green belt and converting offices to residential developments without the need for planning permission.

The remainder of this short briefing focuses on the planning-related elements of this package.

## **Section 106 renegotiations**

LGiU members may be aware that during the summer the government published a [short consultation](#) on renegotiating section 106 obligations, which are the associated requirements placed on a developer when they receive planning permission. For developments over a certain size these have included an element of affordable housing, or a financial contribution to affordable housing to be provided offsite.

The government argues that with a weak economy these obligations – in particular those agreed prior to April 2010 – are making development commercially unviable, and blocking developers from building 75,000 homes that already have planning permission (it is unclear where this figure comes from).

The consultation proposes that developers should be able to formally request that a section 106 be reconsidered by a local authority. The package announced by the government appears to indicate that it has decided to implement this, despite the consultation running until 8 October 2012. Under the plans, developers can appeal to PINS, who will be instructed to assess how many affordable homes need to be dropped from the obligation for the development to become viable. Legislation to enable this will be effective from early next year.

There is nothing stopping local planning authorities renegotiating section 106 obligations, and some already have (see for example [Take Two: Section 106 renegotiations](#) which I wrote earlier in 2012 for the Planning Advisory Service).

## **Extending permitted development rights**

Currently, planning permission is not required for single-storey extensions that are 3 metres for semi-detached houses and 4 metres for detached houses. The new measures propose doubling these extensions (to 6 and 8 metres respectively) or up to a maximum of half of the existing back garden, until 2015, which the government says will help 'tens of thousands of home owners and companies' (this [BBC news story](#) has a graphic to illustrate the change). There are also changes to retail and industrial permitted development rights (consultation to follow), and a commitment to introduce permitted development rights to enable change of use from commercial to residential use.

## **Poor performing local planning authorities**

The so-called worst-performing planning departments (how this will be determined is not yet specified) will be put into special measures. In a written ministerial statement the Secretary of State for Communities and Local Government, Eric Pickles, said:

'We propose to legislate to allow applications to be decided by the Planning Inspectorate, if the local authority has a track record of consistently poor performance in the speed or quality of its decisions.'

The government will also consult shortly on options to speed up planning appeals. It has instructed PINS to divert resources to prioritise 'all major economic and housing-related appeals' with immediate effect.

## Loosening green belts?

In the lead up to these latest announcements the Chancellor George Osborne appeared to open up a debate about whether more land should be freed up for development in green belts.

However, in the [debate following his verbal statement](#) to the House of Commons Eric Pickles reiterated that there was no change to the green belt policy set out in the National Planning Policy Framework (NPPF). He confirmed that "we will protect the green belt in line with our commitment in the Coalition Agreement... There is considerable previously developed land in many green belt areas. We encourage councils to make best use of that land, while protecting the openness of the green belt, in line with the requirements of the national planning policy framework."

## Comment

Why is planning in the news again? In March 2012 the government launched its National Planning Policy Framework (NPPF) with a clear, if ambitious, timetable for LPAs to work to, and a sense that the dust had settled after months of bitter wrangling.

Against that backdrop, the Prime Minister's exhortation yesterday that "we need to get the planners off our backs" is the equivalent of poking a big stick into a hornet's nest – again. As the planning barrister Richard Harwood told [The Daily Telegraph](#), councils need a debate about planning policy "like a hole in the head".

Responding to questions in the House of Commons Eric Pickles denied that the new package was introducing changes in planning policy, apart from renegotiating section 106 obligations and the temporary change to permitted development. Instead the changes focused on "procedural matters".

But there was a hint of, if not a policy shift, then some signs of frustration that the planning side of localism isn't perhaps panning out like the government hoped it would. In his [written statement](#) Eric Pickles noted that:

'The Localism Act has put the power to plan back in the hands of communities, but with this power comes responsibility: a responsibility to meet their needs for development and growth, and to deal quickly and effectively with proposals that will deliver homes, jobs and facilities.'

DCLG ministers have reminded us often that communities are now in the driving seat, but we've heard a lot less about the accompanying responsibility to make sure that they quickly get on with building houses and so on. Is this a shot across the bows, and how will the government react if they perceive communities to be behaving 'irresponsibly'?

Related to this, Labour MPs were quick to point out that the proposals to punish poor performing authorities by removing their planning responsibilities and putting them into the hands of a central inspection agency was decidedly against the spirit of devolving power.

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The Secretary of State [denied there was a contradiction](#); instead he called it ‘muscular localism’, arguing that:

“It is only those local authorities that have been dragging their feet and being wholly unrealistic, operating in a kind of economy la-la land, that we will be dealing with.”

Still, LPAs are entitled to feel nervous. Who will define, and by what measure, poorly performing planning authorities? What will be the implications financially? And what support arrangements will be in place to help them undertake the improvement that is required?

More broadly, does it really matter? The government continues to criticise LPAs for holding up new housing development because of the time they are taking to approve applications. However, the LGA has just [published figures](#) to show that LPAs have granted approval for 400,000 new homes that are not yet complete, with building yet to begin on more than half of these. It concludes that ‘at the current rate of construction it would take developers 3.75 years to clear the backlog by building all of the new homes local authorities have signed off.’

In a bizarre way perhaps the intention is to highlight the value of planning, in the same way that [local people in Aberystwyth in Wales](#) were begging the local council to restore parking inspectors after a year without them. By unleashing the potential for backyard warfare in cul-de-sacs across the country as neighbours block each other’s sunlight and aspect, people may plead for some planning red tape after all.

Jokes aside, [Planning Magazine](#) reported that many planning consultants and law firms welcome the changes to permitted development rights. For example, Stuart Andrews, Head of Planning at law firm Eversheds, remarked that ‘the permitted rights for most home and business extensions were drafted in response to building pressure in the 1950s and 60s. They are now outdated and fail to recognise that most of us are very careful in what we do to our property.’

Nonetheless, this is a controversial proposal as it implies that the current restrictions serve little purpose other than to stifle much local building and the economic benefit that would bring. Why, then, only make this a time limited measure? Perhaps because not everyone is as careful as Stuart Andrews suggests, and there may yet be unintended consequences regarding the impact of new back garden development for some neighbours and for local environments. Elected members take note...

## Related briefings

[National Planning Policy Framework \(NPPF\) update summer 2012](#)

[Localism Act: planning](#)

**For more information about this, or any other LGiU member briefing, please contact Janet Sillett, Briefings Manager, on [janet.sillett@lgiu.org.uk](mailto:janet.sillett@lgiu.org.uk)**