

FURTHER PERMITTED DEVELOPMENT CHANGES AND A HINT OF RADICAL PLANNING REFORM TO COME

Build, build, build. That has been the clear message from the Government this month as Prime Minister Boris Johnson announced what he described as "the most radical reforms" to the planning system since the Second World War. Streamlining the planning process is a welcome move. However, there is industry concern about the implications further deregulation of the planning system will have on the quality of development. In this briefing, we consider these recently announced changes and what they may mean for town planning and development going forward.

RADICAL REFORMS ANNOUNCED

The Housing Secretary, Robert Jenrick, announced in mid-June that it was time to re-think England's planning system "from first principles". This announcement followed a report that the Government was considering the introduction of a zonal planning system in England. A Planning Policy Paper is due to be published this month detailing the Government's plan for these comprehensive reforms including the supposed expansion of zoning tools to support development. At the same time, the Government has announced further, more immediate changes to the planning system to try to stimulate the country's economic recovery in the wake of the Covid-19 pandemic by removing some of the red tape. It has announced that new legislation will be introduced in summer 2020 to make it easier to build better homes in places people want to live, and new regulations to make it easier to convert buildings for different uses including housing without the need for planning permission. The Government is clearly eager to kick start the economy by giving a boost to the construction industry and associated jobs in the sector, all while addressing England's ongoing battle to deliver more housing.

The relaxed planning rules (that have been announced in advance of the Planning Policy Paper) will include:

- giving more types of commercial premises the flexibility to be repurposed through reform of the Town and Country Planning (Use Classes) Order 1987. For example, a building used for retail could be permanently converted to use as a café or office without requiring a planning application and approval by the local planning authority. However, pubs, libraries,

Key issues

- Planning policy paper due in July detailing "comprehensive reforms" to England's planning system
- New rules are also expected to enable:
 - more types of commercial premises to be repurposed without the need for planning permission
 - commercial buildings to be converted into residential use without the need for planning permission
 - demolition and rebuilding of vacant and redundant residential and commercial buildings without the need for planning permission where they are to be rebuilt as homes
- There is concern that this widespread de-regularisation of planning may have negative impacts on town planning

village shops and other such uses that are "essential to the lifeblood of the communities" will not be covered by these flexibilities.

- enabling commercial buildings to be changed to residential use without the need for express planning permission.
- removing the requirement for builders to obtain express planning permission to demolish and rebuild vacant and redundant residential and commercial buildings where they are to be rebuilt as homes.

These changes will be supported by a package of measures to support home building across England including:

- a £12 billion affordable homes programme to support delivery of up to 180,000 new affordable homes in England over the next eight years; and
- a £450 million boost to the Home Builders Fund to help smaller developers access finance for new housing developments.

DEVELOPMENT OPPORTUNITY OR CAUSE FOR CONCERN?

The changes will be welcome news to commercial property owners and developers alike. For commercial landlords, the changes present a possible solution for increasing office vacancy rates (exacerbated by Covid-19 and the uncertainty around future demand for office space in city centres) by providing for such sites to be repurposed and valued for residential use. For developers, they present an opportunity for faster and more flexible development without the usual red tape which in turn will help to keep costs down. Similarly, the ability to convert retail buildings into different uses such as cafés without the need for planning permission may go some way to help revitalise England's high streets which have been struggling for some time and, like office space, are at risk of being further left behind as people's working (and shopping) habits continue to adapt, leaving a growing number of retail units empty and shopping centres underutilised. Some industry bodies including the British Property Federation are cautiously supportive of the changes as good news for the UK High Street but warn of the need to proceed with caution, noting the importance of ensuring that any new permitted development rights take context into account and deliver high-quality development.

Others, however, have expressed concern as to the extent to which the rules are to be relaxed in favour of speed. The Chief Executive of the Royal Town Planning Institute, Ms Victoria Hills MRTPI FICE, lamented the announcement in an [open letter](#) calling the reforms "dangerous to say the least". Ms Hills states that "Project Speed must not come at the expense of the health and wellbeing of our communities or the climate and environment". Similarly, environmental organisations including National Trust, the Royal Society for the Protection of Birds and the Wildlife Trust have said that the proposed wide-scale deregulation leading to lower environmental standards is a betrayal by the Government of its promise to deliver a "green Brexit".

These concerns are not unfounded. Previous relaxation of planning oversight to allow the conversion of buildings to residential use without requiring a full planning process has given rise to the delivery of "micro-flats" - a well-publicised issue in places such as Croydon. These flats have been characterised as "the slums of the future" and are criticised as sometimes offering very small, poor quality homes. It should be a priority to ensure that

the changes announced last week are not exploited to deliver poor quality accommodation, but to promote faster delivery of quality accommodation.

Impact on local infrastructure needs

There is also a risk that encouraging development by way of permitted development rights may leave local authorities strapped for cash trying to mitigate the direct impacts of such development that would otherwise be funded by developer contributions. By their very nature, developments which are eligible for approval as permitted development should be generally acceptable in planning terms meaning planning obligations would not ordinarily be necessary. However, it is difficult to see how this will be true for the types of development the Government is hoping to encourage by these changes. For example, a large-scale residential conversion will have significantly different infrastructure pressures from a pre-existing commercial use. These pressures include the need to deliver affordable housing, varying transport and travel requirements and the need for new or increased public open spaces and education and leisure facilities to support local residents. Unlike developments permitted by way of planning permission, councils will not have the same opportunity to require provision of, or payments in lieu of, such infrastructure if these developments are enabled by permitted development rights.

Some issues, namely affordable housing, may be balanced by the delivery of more, lower priced, homes for sale or the private rented sector which could relieve the pressure on existing affordable accommodation, for example in the intermediate housing market. As for the other potential impacts, the Government has indicated that the reforms may include a revision of the National Planning Policy Framework to build on the fundamental principles of good design and place making that must be considered through the planning process, as well as support for local communities to produce their own design guides and codes. These initiatives may go some way to avoiding or otherwise mitigating the potential impacts of development, although how comprehensive and effective they will be remains to be seen. Councils will at least retain the ability to charge developers Community Infrastructure Levy (CIL) payment for identified local and sub-regional infrastructure, assuming they have in place a charging schedule, since chargeable developments under the CIL Regulations include projects consented as permitted development under the Town and Country Planning (General Permitted Development) Order 1995.

Managing environmental impacts

Another factor worth noting is that large scale residential developments (or redevelopments) may be caught by the Environmental Impact Assessment ("EIA") regime if they are likely to have significant effects on the environment. Where a development falls within the EIA regime and an EIA is required, permitted development rights are withdrawn and a planning application will be required, accompanied by an Environmental Statement. Hence, some are questioning how effective the changes announced will actually be if major developments are likely to require planning permission in any event. If, as part of the package of reforms, the Government is looking to amend the EIA regime to exclude developments of this nature, then this, of course, gives rise to further concerns as to the risk of developments being brought forward without properly identifying, assessing and mitigating any adverse effects of the development on the environment, as environmental organisations have commented.

How effective are the measures likely to be?

Increased flexibility within the planning system in the manner proposed has the potential to enable innovative, locally driven development solutions to address some of the immediate consequences of Covid-19 and to meet an immediate community need for housing. However, we question whether the changes described will result in the radical changes that Boris Johnson claims. While it may increase developers' interest in commercial-to-residential conversions, we are not convinced that the process will be so streamlined as to deliver housing quickly and efficiently, and in a manner that does not unduly compromise quality or the environment. Similarly, the changes may promote greater flexibility of use classes within commercial premises, however, they are unlikely to be the long term elixir for the country's struggling town centres and shopping centres. In any event, we eagerly await publication of the Planning Policy Paper when further details as to these and the further, more radical, planning system reforms are expected to be announced.

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69697-5-2341