

The Chief Planning Officer
Local Planning Authorities in England

16 March 2010

Dear Chief Planning Officer,

Implementing some key Killian Pretty Recommendations

As you will be aware, the Government has been undertaking an extensive programme of actions in response to the recommendations of the Killian Pretty Review. I am writing to inform you about a number of statutory instruments and other documents that we have just published, which set out new arrangements in relation to the publicity of planning applications, information requirements for planning applications, and permitted development. The statutory instruments also take forward a number of other changes to the planning application and appeal process on which we have previously consulted, but are not directly in response to Killian Pretty.

There are two main groups of changes related to amendments to the General Development Procedure Order and General Permitted Development Order respectively.

The principal amendments in the **Town & Country Planning (General Development Procedure)(Amendment)(England) Order 2010**, which comes into force on 6 April 2010, change some existing statutory provisions in relation to:

- (a) design and access statements;
- (b) the time limits for lodging certain planning appeals;
- (c) applications for non-material changes to permissions; and
- (d) publicity for planning applications.

The second group of amendments relate to the **Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010** which comes into force on 6 April 2010, amends existing statutory provisions in relation to:

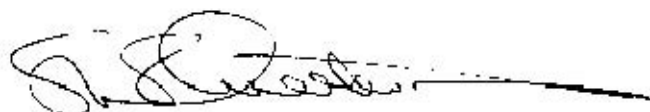
- (a) the scope of non-domestic permitted development;
- (b) the procedure for making local directions restricting permitted development;
and
- (c) permitted development for changes of use from houses in multiple occupation to dwellinghouses.

In the attached annexes to this letter, I provide further information on these changes.

I hope you find this letter and attachments useful. If you have any questions about this letter, I have identified the relevant officials to contact for each key change in the detailed annexes.

I am copying this letter to the Planning Inspectorate.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Steve Quartermain', with a long horizontal flourish extending to the right.

Steve Quartermain
Chief Planner

ANNEX A

The Town & Country Planning (General Development Procedure)(Amendment)(England) Order 2010¹, which comes into force on 6 April 2010, amends existing statutory arrangements in relation to:

- (a) design and access statements;
- (b) the time limits for lodging certain planning appeals;
- (c) applications for non-material changes to permissions; and
- (d) publicity for planning applications.

This note deals with matters (a) to (c). A separate note at Annex B deals with publicity for planning applications.

(a) Design and access statements & associated policy changes

The changes in relation to design and access statements streamline the manner in which applicants discuss the issue of 'context' in their submissions and expand the range of development that is exempt from the requirement to provide a design and access statement. Alongside these statutory changes, we have published revised policy and guidance in relation to both information requirements and the validation of planning applications. In finalising these new arrangements we have taken into account the responses to the consultation paper and a summary of the consultation replies and the Government's response is also now on the CLG website. Full details and web links for all these documents are set out below.

Policy:

Development Management Policy Annex: Information requirements and validation for planning applications

www.communities.gov.uk/publications/planningandbuilding/developmentannexinfo

Guidance:

Guidance on Information Requirements and Validation

www.communities.gov.uk/publications/planningandbuilding/validationguidance

Summary of consultation responses:

Streamlining Information Requirements for Planning Applications: Summary of Consultation Responses

www.communities.gov.uk/publications/planningandbuilding/streamliningsummary

If you have any queries in relation to the changes on design and access, information requirements & validation, please contact jillian.hastings@communities.gsi.gov.uk

¹ The Town & Country Planning (General Development Procedure)(Amendment)(England) Order 2010¹ can be found on the CLG website at: http://www.opsi.gov.uk/si/si2010/uksi_20100567_en_1

ANNEX A, continued

(b) The time limit for submitting a planning appeal

The Order also contains provisions which reduce the time limit for submitting a planning appeal, but only where the same or substantially the same development is subject to an enforcement notice. This takes forward a commitment we made in November 2007² in response to an earlier consultation exercise.

The new time limits will be:

- 28 days from the date of the refusal or the expiry of the period which the local planning authority (LPA) had to determine the application, where the enforcement notice is served before the application is submitted;
- 28 days from the date of the refusal or the expiry of the period which the LPA had to determine the application, where the enforcement notice is served before the decision on the application is reached or the determination period has expired; or
- 28 days from the date the enforcement notice is served, where the enforcement notice is served after the decision or expiry of the period which the LPA has to reach a decision on the application, unless the effect would be to extend the period beyond the usual time limit for cases not involving an enforcement notice.

The reduced time limit to submit a planning appeal will apply where an enforcement notice has been served no more than two years before the date on which the application is made or where it is served on or after the date of the application. It will apply regardless of whether an appeal has been lodged against the enforcement notice or not, provided the enforcement notice is not withdrawn prior to the expiry of the reduced period to submit a planning appeal.

We have amended the notices which local planning authorities are required to issue on receipt of an application for planning permission or when refusing planning permission or granting it subject to conditions. However, as you are aware, there are circumstances in which such notices are not sent, e.g. where the application relates to non-material changes to planning permissions, or to approvals required under conditions, and local planning authorities will need to ensure that applicants are advised of the reduced time period in these situations. We have not amended the notices which are issued with enforcement notices and again authorities will need to ensure that those subject to enforcement notices are made aware of the reduce time period.

If you have any queries in relation to the changes for time limits for lodging certain planning appeals, please contact Theresa.donohue@communities.gsi.gov.uk

² *Government Response to Consultation Replies* can be found on the CLG website at: <http://www.communities.gov.uk/publications/planningandbuilding/improvingappealresponse>.

ANNEX A, continued

(c) Changes in relation to applications for non material changes.

The Order makes two substantive changes.

First, the period for lodging an appeal against an LPA's failure to determine an application is being amended, specifically to include applications for non-material changes to planning permissions. For these applications, the period is to begin after the expiry of the period specified in article 4F of the GDPO (28 days or such time as is agreed).

Second, information about applications for non-material changes will also be required to be included on the planning register kept by the LPA.

If you have any queries in relation to these changes, please contact Neil.holdsworth@communities.gsi.gov.uk

ANNEX B

Changes to publicity for planning applications

The Order introduces a requirement that from 1 October 2010, all local planning authorities must publish specified information about all planning applications on their websites.

Related and equivalent changes are also being introduced from 1 October 2010 for applications in relation to listed building consent and conservation area consent. These are set out in the **Planning (Listed Buildings and Conservation Areas)(Amendment)(England) Regulations 2010³** (the 2010 regulations).

The 2010 regulations also amend the time period for the display of site notices for applications for listed building consent or conservation area consent, or for planning permission for development which would affect the setting of a listed building or the character or appearance of a conservation area, from seven days to 21 days. This applies from 6 April 2010.

The Town and Country Planning (London Borough of Camden) Special Development Order 2004 will be revoked on 1 October 2010. From that date, the arrangements for publicity in Camden will be the same as all other local planning authorities in England.

A short interim guidance note on the new arrangements and a full list of relevant documents is set out below.

If you have any queries about the changes in publicity for planning applications, please contact Neil.holdsworth@communities.gsi.gov.uk.

³ The Planning (Listed Buildings and Conservation Areas)(Amendment)(England) Regulations 2010 can be found on the CLG website at: http://www.opsi.gov.uk/si/si2010/uksi_20100568_en_1

Interim Guidance on Publicity for Planning Applications

Ensuring that all parties can find information on planning issues which could affect them is a vital feature of the planning system. To ensure this happens, there are statutory provisions in place setting out minimum requirements for publicising applications.

The new provisions will preserve the democratic right to information and transparency. They will introduce greater consistency in how members of the public and other third parties are notified of, and can access information on, planning applications. This note briefly reviews the main changes being introduced to current arrangements.

Site notices

From 6 April 2010 the statutory time period for the display of site notices for applications for listed building consent or conservation area consent, or for planning permission for development which would affect the setting of a listed building or the character or appearance of a conservation area, will be 21 days (previously 7 days). This brings this requirement into line with the equivalent for planning applications.

LPA websites

From 1 October 2010 all LPAs will be required to publish, on their websites, the following information on all applications for planning permission:

- (a) the address or location of the proposed development;
- (b) a description of the proposed development;
- (c) the date by which any representations about the application must be made, which shall not be before the last day of the period of 14 days beginning with the date on which the information is published;
- (d) where and when the application may be inspected;
- (e) how representations may be made about the application; and
- (f) that, in the case of a householder application, in the event of an appeal that proceeds by way of the expedited procedure, any representations made about the application will be passed to the Secretary of State and there will be no opportunity to make further representations.

Similarly, from 1 October 2010 all LPAs will be required to publish, on their websites, the following information on all applications for listed building consent or conservation area consent:

- (a) the address or location of the proposed works;
- (b) the nature of the proposed works;
- (c) the date by which any representations about the application must be made, which shall not be before the last day of the period of 21 days beginning with the date on which the information is published;
- (d) where and when the application may be inspected; and
- (e) how representations may be made about the application.

The same requirements will apply in relation to applications for planning permission for development which would affect the setting of a listed building or the character or appearance of a conservation area.

Items (a) to (c) should be published for each application. The remaining items need not be repeated for each application, but should appear at least once on an appropriate part of the website.

Advertisements in local newspapers

The statutory requirement to publish certain applications in newspapers remains unchanged.

London Borough of Camden

To bring the statutory requirements governing publicity for planning applications in Camden back in line with those for other LPAs (and to ensure that the changes described above apply in Camden), the Town and Country Planning (London Borough of Camden) Special Development Order 2004 will be revoked on 1 October 2010. From that date, the statutory requirements for publicising applications in Camden will be as per those for other LPAs in England.

Guidance

The guidance set out in DoE Circular 15/92 remains extant. This interim note supplements that guidance. In due course, Circular 15/92 will be updated and relevant information in this note will be included.

A transitional period of 6 months has been provided in relation to the new requirement for information on all applications for planning permission, listed building consent or conservation area consent to be published on LPA websites. This has been provided to give those LPAs, who will need to make adjustments in order to comply with the new requirement, the necessary time to do so. It is hoped that most LPAs will already be in compliance with the new requirement, or will be able to incorporate any necessary changes into routine updates to existing software and administrative arrangements.

Not all of the application-related information that LPAs are required to publish on their websites need be published separately for each individual application. Some of the information could be published once, on a suitable part of the website, where it can be easily found by website users looking at information on current applications.

As with the previous (and continuing) publicity requirements, the requirements set out in statutory instruments are the minimum. LPAs may wish to (and are encouraged to) undertake additional publicity where desirable. The circular cites some examples.

It should be noted that LPAs may specify a later date or a longer period than is required to be specified. Alternatively, or in addition, they may accept and take into account representations made or received after the date or time period specified has passed, but before an application has been determined. LPAs may wish to make this

point clear on their websites or in any local guidance or information on publicity for applications.

ANNEX C

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010⁴ which comes into force on 6 April 2010, amends existing statutory provisions in relation to:

- (a) the scope of non-domestic permitted development;
- (b) the procedure for making local directions restricting permitted development; and
- (c) permitted development for changes of use from houses in multiple occupation to dwellinghouses.

(a) Non-domestic permitted development

The Order includes provisions to expand the scope of non-domestic permitted development (with certain constraints) for four main groups of development: industry and warehousing; schools, colleges, universities and hospitals; office buildings; and shops. These amendments also include changes to the regulation of hard surfacing. The Government intends to expand the range of permitted development rights which require 'prior approval' at a later date and has made no decision yet as to whether to make air conditioning units permitted development in certain circumstances, so these matters are not covered in the new Order.

(b) The procedure for making local directions restricting permitted development

The Order also includes amendments to the process for restricting permitted development rights locally through the use of article 4 directions. In summary, these: change the Secretary of State's role in the process from determination (where the Secretary of State's approval is required) to oversight (where the Secretary of State *may* intervene); require that all directions restricting permitted development rights be made subject to public consultation (whilst retaining the ability for certain directions to be made immediately); and require site notices for all directions, in addition to other notification requirements. We will issue guidance shortly, both in relation to the changes to permitted development and the new article 4 arrangements. The latter will reaffirm the existing policy on the circumstances under which article 4 directions are justified.

In restricting permitted development rights, local authorities may face claims for compensation if they refuse a planning application for development that would formerly have been permitted. Section 189 of the Planning Act 2008, to be commenced in April 2010, limits the time period for which there may be liability for compensation following the restriction of permitted development rights to 12 months, and prevents claims for compensation if 12 months notice of the revocation is given prior to its coming into force.

⁴ The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010 can be found on the CLG website at: http://www.opsi.gov.uk/si/si2010/uksi_20100654_en_1

Given that numerous directions restricting permitted development rights already exist and that it is in response to extensions to permitted development rights that existing procedures need changing, section 189 will only apply, in the first instance, to recently introduced permitted development rights. Section 189 will also apply where a local development order is amended so as to become more restrictive, or is revoked. **The Town and Country Planning (Compensation) (England) Regulations 2010⁵** apply section 189 to directions made in relation to certain householder permitted development rights (consulted upon in 2007) and those extensions to non domestic permitted development rights proposed in the improving permitted development consultation paper.

The new guidance we will issue shortly will cover changes to arrangements for payment of compensation where permitted development rights are withdrawn.

In finalising the revisions to permitted development and the new provisions on permitted development and compensation, we have taken into account the responses to the consultation paper "Improving Permitted Development" and a summary of the consultation replies and the Government's response is also now published on the CLG website.

If you have any queries regarding these changes to permitted development, article 4 directions and compensation, please contact tom.bristow@communities.gsi.gov.uk

(c) Permitted development for changes of use from houses in multiple occupation to dwellinghouses.

The final key element of the Order allows a change of use from a Class C4 house in multiple occupation (HMO) to a Class C3 dwelling house to be permitted development. This change is linked to an amendment to the Use Classes Order which introduces a specific definition of a HMO along the same lines as the Housing Act 2004. This change, which was announced in January 2010, is set out in **The Town and Country Planning (Use Classes) (Amendment) (England) Order 2010⁶**, which will also come into force on 6 April 2010.

If you have any queries regarding the changes in relation to houses in multiple occupation, please contact Theresa.donohue@communities.gsi.gov.uk

⁵ The Town and Country Planning (Compensation) (England) Regulations 2010 can be found on the CLG website at: http://www.opsi.gov.uk/si/si2010/uksi_20100655_en_1

⁶ The Town and Country Planning (Use Classes) (Amendment) (England) Order 2010 can be found on the CLG website at: http://www.opsi.gov.uk/si/si2010/uksi_20100653_en_1