

## Briefing note

# The Government's Business and Planning Bill, draft Planning Guidance and new Permitted Development Rights

26<sup>th</sup> June 2020 V1

## Introduction

The purpose of this Briefing Note is to set out the key planning elements from the Business and Planning Bill, the Government's draft planning guidance which aims to support the Bill and new Permitted Development Rights. These new measures are mainly temporary and are designed to assist the Covid-19 recovery.

The remainder of this Briefing Note will look specifically at the planning provisions set out in the Bill, the draft guidance and the new permitted development rights in turn.

Business and Planning Bill 2020 <https://publications.parliament.uk/pa/bills/cbill/58-01/0148/200148.pdf>

Draft Planning Guidance [https://www.gov.uk/government/collections/draft-planning-guidance-to-support-the-business-and-planning-bill?utm\\_source=ad97b205-7ff4-4e33-a35a-549fb0075a3d&utm\\_medium=email&utm\\_campaign=govuk-notifications&utm\\_content=immediate](https://www.gov.uk/government/collections/draft-planning-guidance-to-support-the-business-and-planning-bill?utm_source=ad97b205-7ff4-4e33-a35a-549fb0075a3d&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate)

Permitted Development legislation

[http://www.legislation.gov.uk/uksi/2020/632/pdfs/uksi\\_20200632\\_en.pdf](http://www.legislation.gov.uk/uksi/2020/632/pdfs/uksi_20200632_en.pdf)

## Business and Planning Bill 2020

The Business and Planning Bill 2020 was published by Government on 25<sup>th</sup> June 2020. It is expected to be enacted swiftly with an 'all stages' debate scheduled to take place in the House of Commons on 29<sup>th</sup> June 2020. The aim of the Bill is to enable economic recovery following the Covid-19 pandemic and it is a mix of different legislative agendas; planning, licensing and financial. The Bill has the following purposes;

- a. Facilitating 'Bounce Back Loans'
- b. Making it easier for premises in England serving food and drink to eat and serve customers outdoors

- c. Making temporary changes to the law relating to planning in England
- d. Making changes to HGV and PCV licensing in Great Britain and Northern Ireland.

In terms of planning, the Bill makes temporary changes to planning law in England to ensure that the planning system can continue to operate effectively and support the planning and construction of new development following the impact from Covid-19. There are three main elements of those changes, modification of construction hours, extending the implementation period for planning permissions and flexibility in terms of planning appeals.

The Bill introduces a new route for developers to seek to amend planning restrictions which limit construction site working hours. This will allow construction sites to temporarily extend working hours to enable evening and weekend work. This is a temporary measure which will expire on 1<sup>st</sup> April 2021 (unless it is extended by secondary legislation).

The Bill sets out a new 'deemed consent' route, developers will be able to make use of a simplified planning process to temporarily amend any planning condition restricting the hours during which construction activities can be carried out on site. The Local Planning Authority has 14 days within which to notify the applicant of its decision, otherwise the modification is automatically approved. The Government has also published draft guidance on how this 'deemed consent' process will work and further information is set out in the section 'Draft Planning Guidance' below.

There is also a provision to extend the expiration of certain planning permissions and listed building consents, allowing unimplemented planning permissions to commence over the next year. Again this is a temporary measure which will expire on 1<sup>st</sup> April 2021 (unless extended by secondary legislation). Planning permissions and Listed Building consents which are due to expire between the coming into force of the legislation and 31<sup>st</sup> December 2020 will automatically have the implementation deadline extended to 1<sup>st</sup> April 2021. This also applies to applications for the submission of Reserved Matters.

Where planning permissions expired on a date between 23<sup>rd</sup> March 2020 and the date the Bill comes into force then the time limit is extended to April 2021 only if additional 'environmental approval' is granted. An application for this approval must include sufficient information to enable the Council to determine the application. The Council has 28 days to determine the application if it does not notify the applicant of the decision within this period then approval is deemed granted. The Council can only grant approval if certain environmental impact assessment and habitats assessments are met.

There appears to be a conflict in the proposals in the Bill whereby the local planning authority can only grant the extension if the environmental tests are met and the automatic granting of the extension if the local planning authority does not respond within the 28 days. As the Bill makes its way through Parliament it will be interesting to monitor this potential conflict.

A permanent measure introduced in the Bill enables the Planning Inspector to use more than one procedure to determine planning appeals. The intention is to improve the efficiency of the Planning Inspectorate and enable cases to be dealt with quickly.

## Draft Planning Guidance

Alongside the Bill, the Government have published new planning guidance on interpreting the rules. These are to be read alongside a number of the planning measures set out in the Bill and there are three separate guidance documents; Construction Working Hours, Making current Spatial Development Strategies available digitally and Pavement Licences. The guidance on 'making current spatial development strategies available digitally' relates to the London Plan and is not considered relevant to Cornwall Council.

The guidance on 'Construction Working Hours Deemed Consent' provides further detail on the new route to seeking a temporary extension of construction site working hours and sets out considerations which local planning authorities must take into account in determining applications under this proposed new route. The guidance explains the purpose of the process and how it will work. As mentioned above, developers can apply to the Council to vary existing conditions relating to construction site working hours. The Council then has 14 days to determine the application, failure to determine the application within 14 days would result in the revised working hours being consented. The guidance is clear that local planning authorities should not refuse applications without compelling reasons to do so. The guidance recognises potential impacts on residential amenity and noise stating that in all cases sympathetic site management should be demonstrated to mitigate local impacts. Local authorities can propose minor changes to the proposed hours in agreement with the applicant.

The guidance sets out the information that should be submitted as part of the application including proposed revised hours, a short justification as to why extended hours are necessary and details of any mitigation plan setting out how they will liaise with neighbours and manage/mitigate any effects on local residents or businesses.

The guidance is clear that local planning authorities need to prioritise these applications and emphasises that swift decisions are important. Careful consideration should be given to the sensitivity of the site including the impact on neighbours and environmental designations.

The guidance states that there is no application fee associated with this deemed consent route to amend construction working hours. The Council may choose to engage the relevant ward member, environmental health officers and others who are considered to have an interest in the application but there is no requirement to publicise the application.

Applicants have the right to appeal a refusal of any such application but if the local planning authority agree alternative hours/days with the applicant then there is no right of appeal.

The draft guidance on 'Pavement Licences' details the streamlined process to allow businesses to secure such licences in time for the summer, if granted the licence remains in place for a year but not beyond September 2021. These licences are determined under the Highways Act 1980.

## Permitted Development Rights

New legislation has also been laid before Parliament to enable changes to Permitted Development Rights to allow development to assist in supporting economic recovery following the Covid-19 pandemic.

The regulations provide an additional 28 days allowance for the temporary use of land (from 1<sup>st</sup> July to 31<sup>st</sup> December 2020). Another new temporary right allows a local authority to hold a market for an unlimited number of days without the requirement for planning permission (from 25<sup>th</sup> June 2020 to 23<sup>rd</sup> March 2021). It also allows the erection of moveable structures, such as stalls or awnings. The right is time-limited and will cease to have effect from 23<sup>rd</sup> March 2021.

The regulations introduce a permanent permitted development right to allow additional storeys to be constructed on existing purpose-built blocks of flats to create new homes meaning that a full application for planning permission is not required for this form of development there are some limits to this right to allow local consideration of key planning matters through the prior approval process.

In addition, legislative changes are also being made to address concerns raised about the quality of homes provided under existing permitted development to ensure that new homes provide adequate natural light in all habitable rooms for occupants. This will require a prior approval application to be submitted for development after 1<sup>st</sup> August 2020.

There are also some minor technical amendments made through these new regulations, mainly relating to definitions.

Prepared by:  
Ellie Inglis-Woolcock  
Principal Development Officer  
Planning & Sustainable Development  
1 July 2020