

**REPORT TO:** Environment and Urban Renewal  
Policy and Performance Board

**DATE:** 9 September 2015

**REPORTING OFFICER:** Strategic Director – Policy and Resources

**PORTFOLIO:** Physical Environment

**SUBJECT:** Planning Reform

**WARDS:** Boroughwide

## **1.0 PURPOSE OF REPORT**

1.1 This report provides an overview of the most recent and proposed reforms to the town and country planning system. The report illustrates the scale and pace of change within the Planning Service.

**2.0 RECOMMENDATION: That Elected members be aware of the reforms for the purposes of policy making and decision taking.**

## **3.0 BACKGROUND**

### **3.1 Former Government**

3.2 The Coalition Agreement of 2010 set out the Government's ambitions for a "radical reform" of the planning system. Since this agreement, major reforms have taken place with the introduction of the Localism Act 2011 and the National Planning Policy Framework. Changes were also made in the Growth and Infrastructure Act 2013, and in the Infrastructure Act 2015, aimed at speeding up the planning system.

3.3 Outside of these Acts, the former Government made a number of other announcements on planning reform, which have not yet been implemented. These outstanding proposals stem from Budget 2015: the Technical Consultation on Planning July 2014; Consultation: planning and travellers, September 2014; National Infrastructure Plan 2014; and Autumn Statement 2014 ( December 2014), which include:

- a proposed new permitted development right for the drilling of boreholes for groundwater monitoring for petroleum exploration (including for shale gas exploration);
- amending the definition of "travellers" for planning purposes;
- proposals to get more brownfield land back into use;
- steps to speed up section 106 negotiations; and
- proposed reform of the compulsory purchase regime.

It is not yet known whether the new Government will continue to take these further.

3.4 The former Government also implemented significant reforms to the planning system that are already in place:

- National Planning Practice Guidance;
- Allowing further changes of use to residential use without requiring planning permission;
- Reforming the system of permitted development rights;
- Environmental impact assessment thresholds;
- Planning Conditions;
- Planning authority performance;
- Section 106 contributions;
- Proposed reform of the compulsory purchase regime; and
- Sustainable Urban Drainage.

Further detail on these former announcements is set out in Appendix 1 to this report.

3.5 In addition, new regulations came into force on 15 April 2015. These are significant pieces of planning legislation that are fundamental to the operation of the development management process.

- Development Management Procedure Order 2015. (This legislation is essentially the 'process manual' for planning applications).
- General Development Procedure Order 2015. (This statutory instrument grants permitted development rights (essentially automatic planning permission) and has therefore been updated and consolidated).

### 3.6 **Conservative Government**

The various pronouncements made by the new Government set out the likely future direction for planning reform.

### 3.7 Conservative Party 2015 Manifesto

3.8 The Manifesto document contained several planning commitments:

- give local people more control over planning
- support locally-led garden cities and towns in places where communities want them
- where new housing is approved, ensure that local communities know upfront that accompanying infrastructure such as schools will be provided
- aim to double the number of custom-built and self-built homes by 2020, and take forward a Right to Build, which will require councils to allocate land to people to build their own home
- require local authorities to have a statutory register of brownfield land and ensure that 90 per cent of suitable brownfield sites have planning permission for housing by 2020

- create a London Land Commission and fund Housing Zones in other parts of the country to bring forward brownfield land for development
- end any new public subsidy for onshore wind farms and change the law so that local people have the final say on windfarms.
- devolve powers over economic development, transport and social care to large cities that choose to have elected mayors, and devolve further powers over skills spending and planning to the Mayor of London.

### 3.9 Queen's Speech

3.10 In the Queen's speech on 27 May 2015, four new bills were announced which have implications for planning law: a Cities and Local Government Devolution Bill; HS2 Bill; a Housing Bill which would introduce a statutory register for brownfield land and make changes to neighbourhood planning law; and an Energy Bill, which would remove onshore wind farms from the nationally significant development consent process - instead of the final decision on development consent being taken by the Secretary of State, it would return these onshore wind projects to the planning application process where the decision is taken by the local planning authority in the first instance.

### 3.11 Budget July 2015

3.12 On 8 July, the Conservative Party's first Budget since 1996 was delivered. The Budget Statement focused on the economic outlook, the programme for deficit reduction, and welfare reform. An accompanying Treasury report 'Fixing the Foundations' was published two days later (see section below) containing the next round of planning reforms.

### 3.13 Fixing the Foundations: Creating a More Prosperous Nation

3.14 Published on 10 July, this was described as the "second half" of the budget and a 'productivity plan'. The document is called 'Fixing the Foundations: Creating a More Prosperous Nation', it covers higher education, transport, trade, devolution to cities and regions, skills, long-term investment, tax, digital matters and science. Osborne frames this latest reform initiative as the need to build more houses, saying that planning laws have made it impossible to build enough houses.

3.15 The changes to the planning process in 'Fixing the Foundations' are:

1. A new "zonal" system will give automatic planning permission on all suitable brownfield sites, removing unnecessary delays to redevelopment.
2. Power for the government to intervene and have local plans drafted setting out how housing needs will be met when local

authorities fail to produce them and penalties for those that make 50% or fewer planning decisions on time.

3. Stronger compulsory purchase powers to bring forward more brownfield land and devolution of planning powers, including powers over land, to the mayors of London and Manchester.
4. The right for major infrastructure projects that include elements of housing development to be fast-tracked through the Nationally Significant Infrastructure regime – meaning the project does not need to go through full democratic consultation – and allowing developers to apply directly to Government.
5. Allowing upwards extensions in London (for a limited number of storeys up to the height of the adjoining building). Promotion of the development of shale gas (fracking). Allowing taller mobile masts
6. A package to support small and medium-sized housebuilders, including new sanctions for local authorities not processing smaller planning applications on time, with earlier fee refunds.
7. Work towards devolution deals with Liverpool City Region. Put Transport for the North on a statutory footing and give it a budget, clear leadership and a focussed remit, including working to introduce Oyster-style integrated and smart ticketing across the North.

3.16 Local authorities state that planning delays are caused by factors beyond planning, such as dealing with contamination on brownfield sites, a constraint that adds significant risk to the development, and also the lack of resources in planning departments to deal with the flurry of planning reforms.

#### **4.0 POLICY IMPLICATIONS**

4.1 There are too many reforms to provide exhaustive details on each one here. Those reforms considered to be of greatest interest to Elected Members are summarised in this section. Members wanting additional information should make a request to the PPB Lead Officer and specify those topics of interest and a separate topic briefing can be provided.

#### **4.2 Outstanding Proposals from the Former Government**

4.3 The time limit for the residential conversion of offices through permitted development rights has not been extended, and is still set to expire on 30 May 2016. This is the provision under which the developers are seeking to convert the office buildings around Halton Lea. Currently, if the conversion is not completed by 30 May 2016 then the development

can be subject to enforcement. However, it is widely expected that the Government will introduce legislation to extend this time limit to 2019.

- 4.4 National Government remains 'pro-fracking' in terms of national energy strategy. The power of local government to veto projects through the planning regime is being limited through changes to planning guidance and permitted development rights.
- 4.5 The former Government announced it could create a 'right to self-build' which would give people who want to build their own homes a right to a plot from the Council and access to a repayable fund. The first element of the right, requiring local planning authorities to set up a register of prospective custom building who are seeking a suitable serviced plot of land is now contained in the Self-Building and Custom Housing Act 2015. Government is to undertake a new burdens assessment of the additional cost of these local registers on local government.
- 4.6 Cities and Local Government Devolution Bill
- 4.7 The main point is that the Government is proposing to increase local authority/combined authorities power over budgets and spending across a number of policy areas such as housing, transport, planning, policing and health for those cities that choose to have elected mayors. The ten Greater Manchester authorities have already agreed a deal that will come into place after elections have been held for a mayor in 2017 (legislation to enact this is included in this bill). There remains a Government commitment to devolution and the Liverpool City Region will continue to discuss its future, and role in the 'Northern Powerhouse', with Government.
- 4.8 Fixing the Foundations: Creating a More Prosperous Nation
- 4.9 The Government's proposals for further changes to the planning system are set out in Chapter 9 of this document. The document blames "an excessively strict planning system", which prevents land from being used efficiently, thereby impeding productivity by increasing the cost and uncertainty of investment, hindering competition, constraining the agglomeration of firms and the mobility of labour, and encouraging land speculation, rather than productive development. Ministers assert that the resulting under-supply of housing, especially in high-growth areas of the country, has pushed up house prices.
- 4.10 The document recognises that the slow pace of the plan-making system has been a major constraint in achieving the release of housing land, although one of the primary factors is ignored (the abolition of the Regional Spatial Strategies, which were designed to ensure that all authorities should contribute their share to meeting housing land need). The weak 'Duty to Co-operate' that was incorporated in the Localism Act 2011 has failed to provide an effective alternative for the sub-regional allocation of development. The Government therefore intends

to strengthen the duty of cooperation between local authorities, meaning that LPAs will have to be prepared to find housing land to meet the housing needs of adjoining local authority areas where they cannot be met within those areas. This results in obvious tensions.

- 4.11 The government has announced its intention to take further action to ensure that local authorities put local plans in place by a set deadline. It will be “early 2017” (five years after the publication of the NPPF), although it is not entirely clear whether ‘producing’ a local plan means actually adopting it, or merely publishing the first consultation draft. Furthermore, a local plan is not complete until all the required parts of a local plan, such as land allocations, are in place (a lengthy process). At present it is suspected that what is referred to here is simply the Core Strategy, but it is not clear exactly how this measure will be defined. Where it becomes clear that LPAs are not making effective progress towards the adoption of a Local Plan, DCLG will intervene in those authorities and will do the job themselves. Whether this will in practice lead to faster plan-making is perhaps open to doubt.
- 4.12 For ‘brownfield’ sites, the government is promising funding to provide infrastructure, strong local leadership to shape development and assemble sites, and the removal of unnecessary planning obstacles. The real problem, however, is the cost of remediation of site contamination where there has been an interesting and varied history of industrial uses. Developers have been known to bankrupt themselves in the process of trying to clean up sites of this sort.
- 4.13 Ministers contend that the planning system can create the sort of “slow, expensive and uncertain process” that reduces the appetite to build, where development proposals require individual planning permission and are subject to detailed and discretionary scrutiny. The government says it is clear on the need to promote the use of brownfield land, and that it will remove all unnecessary obstacles to its re-development, including these sorts of planning obstacles. To this end, as well as legislating for statutory registers of brownfield land suitable for housing, the government proposes to legislate to grant automatic permission in principle on brownfield sites identified on those registers, subject to the approval of a limited number of technical details.
- 4.14 The assertion is repeated that delays in processing planning applications may be a significant factor preventing housing supply from responding to upturns in the market. So the government proposes to legislate to allow major infrastructure projects with an element of housing to apply through the Nationally Significant Infrastructure Regime (i.e. taking the project out of the normal planning system and putting it through the fast-track procedure for Development Consent).
- 4.15 There is a threat to further tighten the planning performance regime, so that local authorities making 50% or fewer of decisions on time are at risk of designation. The performance regime will also be extended to

minor applications, so that local authorities processing those applications too slowly will be at risk of designation.

4.16 How all this reform will be brought into effect will become clear over the next year or so. Presumably, there will be another Planning Bill later in this parliamentary session, and some re-writing of ministerial policy to give effect to the government's stated intentions.

#### 4.17 **Policy Implications – Conclusion**

The key messages from the planning reform agenda are as follows:

- The legislative basis within which planning professionals operate is changing almost daily. The general workload must be delivered expediently, but this must be done so against ever changing guidance.
- The focus on new house building remains strong.
- Automatic 'permission in principle' on brownfield sites maybe akin to outline consent or prior approvals, however the detail has yet to be published. Halton is likely to lose planning fee income as Government is looking to create a statutory register of brownfield land, and anything on the register gets approval in principle.
- The need for up-to-date local plans is a priority for the government and all political parties. Resource needs to be made available to maintain momentum in statutory development plan making for Halton as plans cannot be put into place overnight and a March 2017 deadline is not far away in terms of the plan making process, which is cumbersome by virtue of legislation.
- Halton's speed of determination for major schemes is over 50%, and Halton will not become a designated authority in 'special measures' if a 50% target is adopted.
- Tension remains between the national pro-fracking agenda and concerns of local people, especially environmental impacts.

#### 5.0 **FINANCIAL IMPLICATIONS**

5.1 There are no direct financial implications arising from this report. However, national policy impacts upon the use of resource capacity as it is necessary for the Council to comply with legislation, national policy and guidance in both planning decision and local plan making.

5.2 Indirectly there will be resource implication, for example, in creating a local brownfield land register and undertaking an assessment to ascertain which sites are suitable for housing. The registers of self-builders wanting plots is another example of an additional burden on local government.

## **6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

The planning reforms set out in this report impact upon all Council priorities.

### **6.1 Children and Young People in Halton**

Local plan making and decision taking directly impacts the setting of their community (economic, environmental, and social structures), together with the availability of facilities and infrastructure in which children grow up.

### **6.2 Employment, Learning and Skills in Halton**

Local plan making directly affects the availability of land for employment, jobs and growth. Specifically, the changes in permitted development rights impact upon the availability of office buildings as the control of the residential conversion of offices is now beyond the control of the local planning authority (until May 2016).

### **6.3 A Healthy Halton**

Local plan making is directly associated with health and well-being, for example through the availability of open spaces, access to sustainable transport routes and infrastructure (particularly walking and cycling), adaption of the built environment to climate change, and the provision of homes.

### **6.4 A Safer Halton**

The existing statutory development plan contains a number of policies designed to improve safety. Specifically, these relate to safety around hazardous installations, airports, safe transport infrastructure, and a reduction in opportunities for crime through well designed developments.

### **6.5 Environment and Regeneration in Halton**

Halton's statutory development plan sets out a strategy to regenerate key areas of the Borough and to conserve, protect and enhance other areas through proactive planning policies. The policies contained within the development plan are used to shape and improve Halton's environment.

## **7.0 RISK ANALYSIS**

7.1 Failure to meet European and national law, and policy and guidance can lead to appeals and legal challenges to the Council. In planning decisions, national policy carries significant weight in the planning balance when a decision is reached.



7.2 Measures are already in place to penalise poor performance and the threshold for performance is being increased with regard to the speed of planning decisions. Measures are also being introduced for local plan making. The risk is that slow decision taking or plan making will be punished by the Government stepping in through 'special measure' interventions.

## 8.0 EQUALITY AND DIVERSITY ISSUES

8.1 There is no evidence from an initial assessment of an adverse impact on equality in relation to the equality target groups.

## 9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
DCLG Planning Election Update March 2015	<a href="https://www.gov.uk/planning-guidance-letters-to-chief-planning-officers">https://www.gov.uk/planning-guidance-letters-to-chief-planning-officers</a>	Tim Gibbs
National Planning Practice Guidance	<a href="http://planningguidance.planningportal.gov.uk/blog/guidance/">http://planningguidance.planningportal.gov.uk/blog/guidance/</a>	Tim Gibbs
Institute for Fiscal Studies Central Cuts, Local Decision-Making: Changes in Local Government Spending and Revenues in England, 2009-10 to 2014-15	<a href="http://www.ifs.org.uk/publications/7617">http://www.ifs.org.uk/publications/7617</a> <a href="http://www.ifs.org.uk/uploads/publications/bns/BN166.pdf">http://www.ifs.org.uk/uploads/publications/bns/BN166.pdf</a>	Tim Gibbs
Budget 2014	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/293759/37630_Budget_2014_Web_Accessible.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/293759/37630_Budget_2014_Web_Accessible.pdf</a>	Tim Gibbs
Autumn Statement 2014	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/382327/44695_Accessible.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/382327/44695_Accessible.pdf</a>	Tim Gibbs
Planning and Travellers Consultation	<a href="https://www.gov.uk/government/consultations/planning-and-travellers-proposed-changes-to-planning-policy-and-guidance">https://www.gov.uk/government/consultations/planning-and-travellers-proposed-changes-to-planning-policy-and-guidance</a>	Tim Gibbs
Mansion House Speech 2014	<a href="https://www.gov.uk/government/speeches/mansion-house-2014-speech-by-the-chancellor-of-the-exchequer">https://www.gov.uk/government/speeches/mansion-house-2014-speech-by-the-chancellor-of-the-exchequer</a>	Tim Gibbs
Sustainable Drainage Systems	<a href="https://consult.defra.gov.uk/water/delivering-sustainable-drainage-">https://consult.defra.gov.uk/water/delivering-sustainable-drainage-</a>	Tim Gibbs

	<a href="#">systems</a>	
--	-------------------------	--

**Former Government Planning Reforms**

10.1 a) National Planning Practice Guidance

On 6 March 2014, the Department for Communities and Local Government (DCLG) launched the planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning practice guidance documents cancelled when this site was launched. Planning practice guidance is now available entirely online in a usable and accessible way. Important information previously only published in separate documents can now be found quickly and simply online. In 2015, guidance on the following has been issued:

- Aerodromes
- Older People
- Starter Homes
- Planning Obligations, including the vacant building credit
- Community Infrastructure Levy
- Compulsory Purchase System
- Permitted Development for Change of Use of Agricultural Buildings
- Household Projections
- Sustainable Drainage Systems
- Temporary Stop Notices
- Flood Risk and Coastal Change
- Hazardous Substances
- Environmental Impact Assessment
- Students
- Viability
- Maximum Parking Standards
- Gypsy and Travellers

10.2 b) Permitted Development Rights

Permitted development rights are basically a right to make certain changes to a building without the need to apply for planning permission. These derive from a general planning permission granted from Parliament (in *The Town and Country Planning (General Permitted Development) Order 1995*), rather than from permission granted by the local planning authority. Schedule 2 contained within this Order sets out the scope of permitted development rights.

10.3 In Budget 2014, it was announced that the Government would review the General Permitted Development Order (GPDO):

*“the government will review the General Permitted Development Order. The refreshed approach is based on a three-tier system to decide the appropriate level of permission, using permitted development rights for*

*small-scale changes, prior approval rights for development requiring consideration of specific issues, and planning permission for the largest scale development.”*

10.4 The much-amended 1995 GPDO has been replaced with a consolidated order – the Town and Country Planning (General Permitted Development) (England) Order 2015 (SI 2015 No. 596). This consolidates the many amendments that had previously been made to the GPDO. The Order was made on 18 March, laid before parliament on 24 March and came into force on 15 April 2015. The main changes made by the new GPDO are:

- the date for the expiry of permitted development rights for larger home extensions (in Class A of Part 1) has been extended and will now expire on 30 May 2019; BUT the time limit for the residential conversion of offices (formerly Class J, now Class O), has not been extended, and is still set to expire on 30 May 2016. This is the provision under which the developers are seeking to convert the office buildings around Halton Lea.
- the previous time-limit for extensions to non-domestic premises (offices, shops, industrial buildings and schools etc.) has been made permanent (now Part 7 of Schedule 2);
- a number of new permitted development rights have been inserted in Part 3 (changes of use): the conversion of retail premises to restaurants / cafes (Class C); the existing permitted development to convert a shop to a deposit-taker is replaced by a wider right to convert a shop (or a betting office) to a premises providing financial and professional services (Classes D and F); the conversion of retail premises to assembly and leisure (Class J); the conversion of casinos or amusement arcades to dwelling houses (Class N); and the conversion of premises used for storage or distribution centre uses to dwelling houses (Class P);
- a new permitted development right for temporary use of buildings and land for commercial film-making has been inserted in Part 4;
- a new permitted development right has been included for the provision of ‘click and collection’ facilities within the curtilage of a shop and for increasing the size of loading bays for shops and permitted development for the extension etc of buildings used for waste facilities (see Classes C, D and L of Part 7 of Schedule 2); and
- a new permitted development right for the installation of solar PV panels, with a generating capacity of up to 1 MW on the roofs of non-domestic buildings (Class J(c) of Part 14).

10.5 c) Environmental impact assessment thresholds

The aim of European Directive 2011/92/EU is to protect the environment and human health by ensuring that a competent authority (e.g. a local authority or the Secretary of State) giving consent for

certain projects to proceed, makes the decision in the knowledge of any likely significant effects on the environment. The procedure is known as environmental impact assessment. The existing directive on environmental impact assessment was amended by a new *Directive 2014/52/EU* in early 2014. The Government will implement the new requirements by 17 May 2017. On 5 March 2015, the Government said that it would “shortly be laying regulations which will significantly reduce the number of housing schemes and proposals for other urban development which are not likely to have significant effects on the environment but which currently have to be screened by local planning authorities (Gov.uk press release, Planning update: written statement to Parliament, 5 March 2015).

#### 10.6 d) Planning Conditions

The power to impose conditions when granting planning permission is very wide. They are used to enhance the quality of development and enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. In the *National Infrastructure Plan 2013*, the Government expressed concern about delays with local planning authorities discharging planning conditions and committed to making changes to the system:

*7.43 Delays associated with the discharge of planning conditions can hinder the effective delivery of development. The government will legislate so that where a planning authority has failed to discharge a condition on time, it will be treated as approved, and will consult on using legislative measures to strengthen the requirement for planning authorities to justify conditions that must be discharged before any work can start.*

The Infrastructure Act 2015 has now received Royal Assent and permits certain types of planning conditions to be regarded as discharged if a local planning authority has not notified the applicant of their decision within a set time period.

#### 10.7 The Government’s July 2014 Technical Consultation on Planning also proposed some changes to the regime relating to planning conditions, including:

- a reduction from 12 weeks to 8 weeks in the time period after which an applicant asking for confirmation of compliance with conditions attached to a planning permission, becomes entitled to a fee refund if the local authority has not notified the applicant of its decision; and
- an additional requirement for local authorities to justify the use of pre-commencement conditions (i.e. conditions requiring the submission and approval of something by the local planning authority before a prescribed part of the development goes ahead).

10.8 The Government's response to this part of the consultation was published on 5 March 2015. It confirmed that these changes would be made by amendments to secondary legislation.

10.9 e) Planning authority performance

The *Growth and Infrastructure Act 2013* allows applicants for major development to apply direct to the Secretary of State (in practice a Planning Inspector), rather than the local planning authority (LPA), where the LPA has been "designated" for having a record of very poor performance in the speed or quality of its decisions.

10.10 In the *Autumn Statement 2013*, the Government said that it would consult on increasing the threshold for designation from 30% to 40% of decisions made on time. On 23 March 2014, the Government published a consultation, *Planning performance and planning contributions: consultation* which consulted on raising the threshold for designation as follows:

*We are proposing that the threshold for designating authorities as under-performing, based on the speed of deciding applications for major development, should increase to 40% or fewer of decisions made on time. The threshold may be raised further at a future stage. Authorities that have dealt with an average of no more than two applications for major development, over the two year assessment period, would be exempt from designation based on their speed of decisions. The document setting out the criteria for designation would set out the types of exceptional circumstances that may be taken into account, prior to designations being confirmed.*

10.11 The Government responded to this part of the consultation on 13 June 2014 and confirmed that the threshold for designation would be raised to 40%. In respect of this, it laid a document of revised criteria for designation on 13 June 2014 before Parliament which is now in effect.

10.12 In the National Infrastructure Plan 2014, the Government said that the government will keep the speed of major decisions under review, with "minimum performance thresholds increasing to 50% of major decisions made on time as performance improves. This proposal has now been made in the 'Fixing the Foundations' report of July 2015.

10.13 f) Section 106 contributions

Section 106 contributions, sometimes known as "planning obligations" or "planning gain" stem from agreements made under section 106 of the *Town and Country Planning Act 1990*. They are agreements made between the developer and the LPA to meet concerns such as (but not limited to) the costs of providing new infrastructure or affordable housing levels.

10.14 The proposals to speed up negotiation of section 106 obligations included:

- setting clear time limits so section 106 negotiations are completed in line with the existing 8 to 13 week target for planning applications to be processed rather than letting them slow the whole planning process down;
- requiring parties to start discussions at the beginning of the planning application process, rather than the current system where negotiations can often start towards the end;
- a dispute resolution process where negotiations stall preventing development;
- using standardised documents to avoid agreements being drafted from scratch for each and every application;
- potential legislation to give new measures teeth.

10.15 The consultation closed on 19 March 2015. The former Government responded that changes would be made to National Planning Practice Guidance to promote the use of standard clauses and promote pre-application discussions. These changes have now been made and it appears that there may be further changes to the legislative framework for resolving delays in negotiating S.106 agreements.

10.16 g) Traveller and Green Belt sites

*Consultation: planning and travellers* was published on 14 September 2014, closing on 23 November 2014. The consultation invited views on a number of different questions. One of the main questions is about whether the definition of “traveller” should be changed for planning related purposes so that it would exclude those who have permanently ceased from travelling. The current definition of traveller can be found in the Government’s Planning Policy for Traveller Sites. The consultation explains the Government’s reasons for proposing this change:

*2.2 Current policy requires that those who have ceased travelling permanently for reasons of health, education or old age (be it their needs or their family’s or dependents’) are for the purposes of planning treated in the same way as those who continue to travel.*

*2.3 The Government feels that where a member of the travelling community has given up travelling permanently, for whatever reason, and applies for a permanent site then that should be treated no differently to an application from the settled population (for example, seeking permission for a Park Home). This would not prevent applications for permanent sites, but would mean that such applications would be considered as any other application for a permanent caravan site would be: i.e. not in the context of Planning Policy for Traveller Sites.*

*2.4 This is not about ethnicity or racial identity. It is simply that for planning purposes the Government believes a traveller should be someone who travels.*

- 10.17 The proposed new definition of gypsies and travellers would read:  
*Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.*
- 10.18 The Consultation also asked for views on whether the Government should integrate sections from the National Planning Policy Framework on Green Belt protection with its Planning Policy for Traveller Sites. The intention of this is to reiterate and make clearer existing planning policy relating to green belt and travellers, rather than to change policy. The Government also proposed to inset the word "very" into the following existing policy to give stronger emphasis: "Local planning authorities should [very] strictly limit new traveller site development in open countryside."
- 10.19 One proposed change is to amend the weight which is currently given to any absence of a five year supply of permanent sites when deciding planning applications for temporary sites in land designated as Green Belt, sites protected under the Birds and Habitats Directives, sites designated as Sites of Special Scientific Interest, Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park or the Broads. The consultation explained, "the absence of an up-to-date five year supply of deliverable sites would therefore no longer be a significant material consideration in favour of the grant of temporary permission for sites in these areas. It would remain a material consideration, but its weight would be a matter for the decision taker."
- 10.20 The Consultation also proposed to change planning policy to deal with the intentional unauthorised occupation of sites, so that if a site were to be intentionally occupied without planning permission, this would be a material consideration in any retrospective planning application:
- For the avoidance of doubt, this does not mean that retrospective applications should be automatically refused, but rather failure to seek permission in advance of occupation will count against the application. It will, the Government hopes, encourage all applicants to apply through the proper planning processes before occupying land and carrying out development.*
- 10.21 Another measure aimed at addressing unauthorised occupation of land was to remove the need for local authorities which are "burdened by a large-scale unauthorised site which has significantly increased their need", to be required to plan to meet their traveller site needs in full.



10.22 The former Government did not issue a response to this consultation and it is unclear if this will be taken forward.

10.23 h) Brownfield Land

In the Mansion House Speech on 12 June 2014, the Chancellor George Osborne announced that Councils would be required to put local development orders on over 90% of brownfield sites that are considered suitable for housing by 2020. He suggested that this would mean planning permission for up to 200,000 new homes. This speech was later followed by a written statement in the House of Commons by the Secretary of State for Communities and Local Government, Eric Pickles, which set out further the Government's plans to increase housebuilding on brownfield land.

10.24 A Local Development Order (LDO) grants permission for a certain type of development and thereby removes the need for a planning application to be made by the developer. The legal basis is sections 61A-61D of the *Town and Country Planning Act 1990*. The idea is that they can allow developers to progress development proposals with greater speed and certainty. Associated costs may be lower with an LDO as there will not be a planning application fee or need to commit the resources associated with the preparation of an application.

10.25 In January 2015, the Government issued a consultation, Building more homes on brownfield land, which "seeks views on the Government's proposals for identifying suitable brownfield land". As a measure to encourage progress on LPAs meeting the target of putting in place LDOs on 90% of brownfield sites that are considered suitable for housing by 2020, the consultation proposes that LPAs could be designated as under-performing where they do not meet this objective, or where they have failed to provide sufficient evidence that this objective is being met. Where an authority is designated, this would mean that developers would then have a choice of applying directly to the Secretary of State for planning permission. The consultation also proposes an intermediate objective of putting LDOs in place on 50% of brownfield land suitable for housing by 2017 and that LPAs could be designated for not meeting this objective. A second option to incentivise progress on the 2020 target was also put forward for consultation. In this option, the National Planning Policy Framework would be amended to say that local planning authorities that had failed to make sufficient progress against the brownfield objective would be unable to claim the existence of an up-to-date five year housing land supply when considering applications for brownfield development, and therefore the presumption in favour of sustainable development would apply.

10.26 The Consultation closed on 11 March 2015 and a response has yet to be issued. However, proposals appeared in the Queen's Speech and Fixing the Foundations report that indicate that the Housing Bill will

contain measures to progress development on brownfield land (see main body of this report 4.12 & 4.13).

10.27 i) Compulsory Purchase

In the Autumn Statement 2014, the Government announced, that in respect of compulsory purchase reform, it would “publish proposals for consultation at Budget 2015 to make processes clearer, faster and fairer, with the aim of bringing forward more brownfield land for development. The budget of 18 March 2015 launched a technical consultation of the use of CP powers, however the Government has yet to respond to that consultation.

10.28 j) Sustainable Drainage Systems

The Government has set out changes to ensure that sustainable drainage systems for the management of run-off are put in place. These came into force from 6 April 2015:

*“we expect local planning policies and decisions on planning applications relating to major development - developments of 10 dwellings or more; or equivalent non-residential or mixed development (as set out in Article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2010) - to ensure that sustainable drainage systems for the management of run-off are put in place, unless demonstrated to be inappropriate.”*

10.29 Under these arrangements, in considering planning applications, local planning authorities should consult the relevant lead local flood authority (of which Halton is one) on the management of surface water; satisfy themselves that the proposed minimum standards of operation are appropriate and ensure through the use of planning conditions or planning obligations that there are clear arrangements in place for ongoing maintenance over the lifetime of the development. The sustainable drainage system should be designed to ensure that the maintenance and operation requirements are economically proportionate.