

31 March 2011

The Chief Planning Officer
Local planning authorities in England

Dear colleague

PLANNING FOR GROWTH

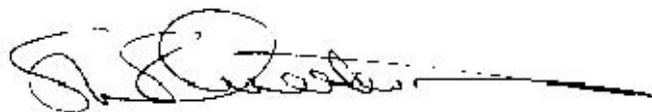
I am writing to draw your attention to the important announcements made in support of last week's Budget. The Growth Review contains ambitious proposals for further planning reform, to ensure that planning supports the sustainable development that we need as the country emerges from recession. A useful summary of the announcements can be found at:

<http://www.communities.gov.uk/newsstories/planningandbuilding/1872022> which you may find helpful for wider briefing.

These objectives need to inform the decisions that local planning authorities are taking now – through plan production as well as development management. The Minister for Decentralisation issued a Written Ministerial Statement on 23 March (**Annex A** to this letter) to emphasise this point and this statement is capable of being regarded as a material planning consideration. Your attention is drawn especially to the weight that the Secretary of State will give to this statement in cases that come before him for decision. I have also attached on **Annex B** further advice on planning obligations. I last wrote to you in May 2009 on this issue and in the light of the written Ministerial Statement take this opportunity to bring this advice up to date.

The Growth Review also announced important changes relating to previously-developed land and buildings. The Government will, through the National Planning Policy Framework, localise choice about the use of previously developed land by removing the national target for the amount of housing development that should take place on previously developed land (the 'Brownfield target').

Finally we will also begin consultation very shortly on the Government's proposals to change the Use Classes Order so that it is easier to convert vacant commercial premises to housing.



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Annex A Written Ministerial Statement: Planning for Growth (23 March 2011)

The Minister of State for Decentralisation (Mr. Greg Clark):

The Chancellor of the Exchequer has today issued a call to action on growth, publishing an ambitious set of proposals to help rebuild Britain's economy. The planning system has a key role to play in this, by ensuring that the sustainable development needed to support economic growth is able to proceed as easily as possible. We will work quickly to reform the planning system to achieve this, but the Government recognises that many of these actions will take some months to deliver, and that there is a pressing need to ensure that the planning system does everything it can to help secure a swift return to economic growth. This statement therefore sets out the steps the Government expects local planning authorities to take with immediate effect.

The Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. Government's clear expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.

The Chancellor has today set out further detail on our commitment to introduce a strong presumption in favour of sustainable development in the forthcoming National Planning Policy Framework, which will expect local planning authorities to plan positively for new development; to deal promptly and favourably with applications that comply with up-to-date plans and national planning policies; and wherever possible to approve applications where plans are absent, out of date, silent or indeterminate.

Local planning authorities should therefore press ahead without delay in preparing up-to-date development plans, and should use that opportunity to be proactive in driving and supporting the growth that this country needs. They should make every effort to identify and meet the housing, business and other development needs of their areas, and respond positively to wider opportunities for growth, taking full account of relevant economic signals such as land prices. Authorities should work together to ensure that needs and opportunities that extend beyond (or cannot be met within) their own boundaries are identified and accommodated in a sustainable way, such as housing market requirements that cover a number of areas, and the strategic infrastructure necessary to support growth.

When deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of sustainable development. Where relevant - and consistent with their statutory obligations - they should therefore:

- (i) consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust growth after the recent recession;
- (ii) take into account the need to maintain a flexible and responsive supply of land for key sectors, including housing;
- (iii) consider the range of likely economic, environmental and social benefits of proposals; including long term or indirect benefits such as increased consumer choice, more viable

communities and more robust local economies (which may, where relevant, include matters such as job creation and business productivity);

(iv) be sensitive to the fact that local economies are subject to change and so take a positive approach to development where new economic data suggest that prior assessments of needs are no longer up-to-date;

(v) ensure that they do not impose unnecessary burdens on development.

In determining planning applications, local planning authorities are obliged to have regard to all relevant considerations. They should ensure that they give appropriate weight to the need to support economic recovery, that applications that secure sustainable growth are treated favourably (consistent with policy in PPS4), and that they can give clear reasons for their decisions.

To further ensure that development can go ahead, all local authorities should reconsider, at developers' request, existing section 106 agreements that currently render schemes unviable, and where possible modify those obligations to allow development to proceed; provided this continues to ensure that the development remains acceptable in planning terms.

The Secretary of State for Communities and Local Government will take the principles in this statement into account when determining applications that come before him for decision. In particular he will attach significant weight to the need to secure economic growth and employment.

Benefits to the economy should, where relevant, be an important consideration when other development-related consents are being determined, including heritage, environmental, energy and transport consents. The Secretary of State for Culture, Olympics, Media and Sport, the Secretary of State for the Environment, Food and Rural Affairs, the Secretary of State for Energy and Climate Change and the Secretary of State for Transport have consequently agreed that to the extent it accords with the relevant statutory provisions and national policies, decisions on these other consents should place particular weight on the potential economic benefits offered by an application. They will reflect this principle in relevant decisions that come before them and encourage their agencies and non departmental bodies to adopt the same approach for the consents for which those other bodies are directly responsible.

Annex B Planning Obligations

There is a need to ensure that existing planning permissions are built out to help deliver growth and support local economies.

Planning obligations (also known as 'section 106 agreements') are contractual agreements between developers and Local Planning Authorities to deliver what is necessary to make a development acceptable in order to obtain planning consent. Where they are asked to do so, Local Planning Authorities should carefully review planning obligations to ensure that they accord with all the policy tests set out in Circular 5/05. For planning consents for buildings granted after 6 April 2010, the statutory tests set out in Community Infrastructure Levy Regulations 2010 must be met.

Understanding the impact of planning obligations on the viability of development will be an important consideration when obligations are reviewed, particularly where they were reached in different economic circumstances. An appropriate review of obligations, which takes account of local planning priorities, could allow development to proceed on stalled schemes.

The Homes and Communities Agency can provide guidance on best practice (<http://www.homesandcommunities.co.uk/qualityandinnovation>). The HCA is also able to offer advice as a critical friend to local authorities, for example where they may be facing renegotiation of large or complex developments. Where local authorities identify the need for this support as a high local priority, it will be available through the HCA's local teams. The HCA is launching a new Development Appraisal Tool in early April 2011. Local Authorities may find this and other available models to be helpful in considering viability.

The New Homes Bonus will provide a significant additional incentive for Local Authorities to consider development opportunities in their area and ensure stalled proposals come forward for completion. Commencing in April 2011, the New Homes Bonus will match fund for 6 years the additional council tax raised for new homes and long term properties brought back into use, with a premium for affordable homes. The Bonus will sit alongside national planning policy and Local Planning Authorities will continue to be bound by this.

Scale back of planning obligations

For current and future planning obligations negotiations, you will be aware that planning obligations are being scaled back through the Community Infrastructure Levy Regulations 2010. Two key features of the scale back apply to all new planning obligations whether or not CIL is introduced in an area. The first is to impose statutory tests on planning obligations for planning permissions for buildings given after 6 April 2010. Obligations must be:

- necessary to make the development acceptable;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

Second, after 2014, or the adoption of CIL whichever is sooner, Local Authorities will no longer be able to pool more than 5 planning obligations to a single project which could be funded by CIL. This will make S106 tariffs which fund such projects inoperable. The appropriate mechanism for pooled contributions will be the Community Infrastructure Levy, a fairer, more transparent and predictable mechanism where viability is properly assessed at an early stage during preparation of the charging schedule.

Transparency

It is important that planning obligations are made available to the general public to assist in understanding those measures which will address the impact of the development. Article 36 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 requires that a copy of any planning obligation is kept on the planning register (either in paper or electronic form), together with details of any modification or discharge of the obligation.