



Growth and Infrastructure Act 2013

The Growth and Infrastructure Act is the Coalition Government's second piece of primary legislative reform to the planning system. Whilst it does not contain the sweeping conceptual reforms of the Localism Act, in many ways the reforms are of more immediate relevance to local authorities and developers as they change the nuts and bolts of the planning regime.

This note sets out the changes in four key areas. Unless stated otherwise, the date for implementation of provisions has yet to be confirmed:

Planning & Highways provisions

- **Ability to make planning applications directly to the Planning Inspectorate:** applicants can bypass local planning authorities and apply directly to the Secretary of State (in reality the Planning Inspectorate) for planning permission. This provision is restricted to major developments and only where the local planning authority has been 'designated' due to its poor performance in dealing with major applications. Regulations in this regard can be made from 9 May 2013.
- **Costs awards in public inquiries:** the Act expands the powers to award costs in both planning and compulsory purchase public inquiries.
- **Prior approval for permitted development rights:** development orders can include prior approval powers for local authorities where the order concerns change of use development. In addition, neighbours can make representations on extensions to adjoining dwellings permitted by development orders. In force from 25 April 2013.
- **Limits on information required to accompany planning applications:** limits the powers that local planning authorities have to require documents and other evidence to accompany planning applications.
- **Stopping up and diversions of highways and public paths:** applications for the stopping up or diversion of highways and public paths can be made in parallel with associated planning applications. Currently, planning permission must be obtained first. Will come into force on 25 June 2013.

Town and Village Green (TVG) Regime

- **Grace period:** the Act reduces the period during which applications for TVGs can be made following the use ceasing from two years to one year in England. The two year period will remain in Wales.
- **Stopping the clock for qualifying period of use:** a landowner can deposit a statement and map with the commons registration authority to bring to an end any period of 'use as of right for lawful sports and pastimes' that could count towards use as a TVG. This is similar to provisions already in place for footpaths.
- **Bar on applications for TVG status being submitted:** an application for TVG cannot be made if certain trigger events (such as a planning application or designation in a Local Plan) have occurred. Each trigger event is subject to specific terminating events, for example a planning application being withdrawn or refused. If a terminating event occurs, a TVG application can subsequently be submitted. TVG applications are often only made after a planning application has been submitted. This provision will offer protection to landowners and developers in that situation. In force from 25 April 2013.

Planning obligations regarding affordable housing

- The Act amends section 106 of the Town and Country Planning Act 1990 to introduce a new application and appeal procedure for the review and modification of affordable housing planning obligations. Applicants will need to demonstrate that existing requirements render development unviable. Planning authorities will only be able to reduce and not increase provision, but will be able to refuse requests. In those cases there is a right of appeal to the Planning Inspectorate. Modifications granted on appeal will however only be valid for three years from the date of the Inspector's decision. In force from 25 April 2013.

Infrastructure provisions

- **S.36 Electricity Act 1989 consent variations:** the Act will allow developers to make minor amendments to section 36 consents and associated deemed planning permissions.
- **S.36 Electricity Act 1989 consent variations:** deemed planning permission for onshore development can be secured via the associated s.36 consent for offshore generating stations.
- **Planning Act 2008 amendments:** the Act will remove the need for developers to obtain consent under the Planning Act 2008 for amending or replacing specified approvals required under previous regimes. It will also remove the need for certain certificates to be issued by the Secretary of State in relation to statutory undertakers' land. Lastly, the provisions regarding road user charging have been amended. In force from 25 June 2013.
- **Special Parliamentary Procedure:** the Act will limit the use of Special Parliamentary Procedure under the Planning Act 2008. National Trust land is however still subject to it. In force from 25 June 2013.
- **Business and commercial projects:** large scale business and commercial projects can be classed as nationally significant infrastructure projects (NSIPs). This change came into force on 25 April 2013 but will be subject to secondary legislation to specify the exact types of project to be included.

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