



Infrastructure Act

The Infrastructure Act received Royal Assent on 12 February 2015. The main development-related provisions are summarised below.

Deemed discharge of planning conditions

The Act allows for certain planning conditions which require the approval of a local planning authority (**LPA**) to be deemed discharged if a response from the LPA is not provided within a stipulated timeframe. The details will be set out in secondary legislation which is awaited. The Government's consultation response indicated that conditions in EIA consents, those designed to manage flood risk and those requiring approval of reserved matters would be likely to be excluded and that the overall time period for deemed discharge to take effect could be 8 weeks. The process will only apply to planning permissions granted after the secondary legislation has come into force so the key point to note is that it will not apply retrospectively.

Improvements to the nationally significant infrastructure project (NSIP) regime

The Act introduces changes to the NSIP regime, including provision for the examining authority (**ExA**) for an NSIP application to be appointed earlier in the process when the application is accepted and for an ExA to comprise a panel of 2 inspectors rather than just 3 or 5, as was previously the case. There are also provisions which enable changes to the regime to vary development consent orders (**DCOs**), which will be introduced through secondary legislation, and it is expected that the consultation requirements for non-material changes to DCOs will be relaxed. These provisions are not fully in force yet and no date has been appointed.

Mayoral development orders

The Mayor of London is given the power to grant planning permission for development sites within Greater London (Mayoral development orders). The process will be set out in secondary legislation although it should be noted that the Secretary of State (**SoS**) can exclude the power from certain areas and classes of development and can revise or revoke the Mayor's decision.

Petroleum exploitation

From 12 April 2015 in England and Wales, there will be a statutory right to use land at depths of at least 300m for the purposes of exploiting petroleum or deep geothermal energy. This removes the requirement for landowner consent to be obtained. 'Use' includes drilling, boring, fracturing and installing infrastructure. Planning permission and environmental permits will still be required for these types of development. Compensation will not be payable as a result of the statutory right, although the SoS may set up a payment scheme and require energy companies to give landowners notice. Secondary legislation will be required to implement these measures. The Act also sets out the prerequisites for the SoS to issue a well consent for onshore unconventional gas extraction however these provisions are yet to come into force.

Community electricity right

From 1 June 2016, communities in England, Wales and Scotland will have the right to buy a stake in local renewable energy projects greater than 5MW. Secondary legislation will be introduced to implement these measures.

Highways England

The Act enables Highways England, a government owned company, to take over from the Highways Agency who have responsibility for motorways and trunk roads. Secondary legislation is required before this change takes place.

Highways England will be subject to independent scrutiny by a watchdog, the Passengers' Council and an efficiency monitor, the Regulator Office of Rail Regulation (ORR).

Land owned by public bodies

From 12 April 2015, the steps for selling land owned by public bodies will be simplified. This supports the Homes and Communities Agency (HCA) and Greater London Authority (GLA) roles in acting as land disposal agencies for the Government by enabling an arm's length body of a Government department to transfer land which is no longer required directly to HCA/GLA instead of the land being transferred to a sponsor department and then onto HCA/GLA.

The provisions will also allow for purchasers of land from HCA/GLA to buy free from third party rights and restrictions.

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