

## Adapting to the New Planning World

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**In this new planning world that we are now working in many of us have tales of Councils delaying their review of LDF documents, refusing to determine applications, refusing allocated site applications, or even removing allocated sites from development plans.**

Regional Spatial Strategies have been abolished and uncertainty and confusion surrounds many potential development sites. Even those with an LDF allocation may be vulnerable to a Council reviewing its LDF if it was based on RSS housing numbers that no longer exist. In some areas the news may be more positive if there is a robust Strategic Housing Market Assessment and other supporting evidence, eg to the RSS Panel, showing a pressing housing need and requirement for market housing. A strong argument can then be presented that planning permission should be granted if the Council cannot demonstrate a five year housing land supply. Indeed some Councils have evidence bases that show higher requirements for market housing than even the RSSs showed. The fear must be, however, that in the near future this window of opportunity may be closed. We may see Councils being given greater flexibility in how they determine what their five year housing land supply should be. Will we see a shift from it being based on evidence to more of a capacity based approach so that, whatever a Council's ambitions are, that will be the five year housing land supply requirement – a self-fulfilling prophecy?

At uncertain times such as these it is perhaps more important than ever that options, conditional contracts for the purchase of development land and development agreements cover an ever widening range of possible planning outcomes and risks. House builders and their planning teams need to be alive to future changes in the law. The crystal ball is becoming an important legal tool. For example, the Conservatives' pre-election 'Open Source Planning' Green Paper envisaged limiting the scope for appealing planning refusals. It also suggested a third party right of appeal for objectors who wish to challenge a grant of planning permission by a Council. These have not been mentioned much by the Government since the election. They may, however, be introduced in the future. All the possibilities need to be considered in any contractual documentation.

The way some house builders operate is already starting to change. Many sites will now only be able to come forward if developers foster closer relationships with the communities in which they want to build. Public exhibitions alone are no longer sufficient. Developers will need to persuade local residents and councillors of the benefit of a development. The much promised financial incentives to Councils who permit development may help. That said, in a site of less than 100 housing units in a Council area that does not have budget problems and strong local resident resistance, will the incentives really make a difference and result in the grant of a planning permission?

The removal of the 30 dwellings per hectare target should provide developers with greater flexibility to take on board local residents' concerns and adapt schemes to secure buy in from residents and councillors.

In these uncertain planning times the developers that will succeed the best will be those that recognise that the old planning system is dying. New ways of working, with new delivery models, will be required. We will need to be alive to changes in law and policy, some of which may well be imposed without the proper consultation and procedures that we have become used to. The pay back, for the industry being flexible and accepting the new planning world must, however, be a recognition by Councils that they cannot operate outside the system, whatever that system is. The industry must continue to push for clarity on the new planning world. Only then will Councils be forced to act and not hide behind the uncertainty as an excuse for inaction and rogue decisions. Whilst the last couple of months contained much uncertainty, the new planning system is slowly taking shape. The Decentralisation and Localism Bill, due to be published towards the end of the year, will provide greater certainty. However, the industry cannot wait for the Bill and must adapt now to the evolving new planning world.



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