

Letter of the law

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Julia Dixon looks behind the acronyms to explain how recent planning laws are applied in England

Planners and planning lawyers use a variety of acronyms in their daily work. This A to Z guide features those of most relevance to building surveyors.

ACV

What is it?

The [Localism Act 2011](#) created Assets of Community Value. Community interest groups can nominate assets to the local authority that further the social wellbeing or interests of the local community now, or in the recent past, for inclusion in a list. If accepted, then there are restrictions imposed when the owner makes a relevant disposal of the asset.

Recent changes

More pubs have been registered as ACVs than any other assets. Permitted development (PD) rights have been removed in relation to ACV listed pubs so that a change of use will require planning permission.

BID

What is it?

A Business Improvement District is a defined area in which an additional levy is charged on all business rate payers. The money is then used to develop projects that will benefit businesses in the local area.

Recent changes

A consultation was issued by the Department for Communities and Local Government seeking views on four proposals to strengthen the role of BIDs. The consultation closed on 19 June.

CIL

What is it?

The [Community Infrastructure Levy](#) is a planning charge to help local planning authorities (LPAs) deliver infrastructure to support development in their area. Many authorities have not yet introduced CIL.

Recent changes

Since 6 April, limitations have been imposed on the use of pooled planning obligations to fund infrastructure projects for those authorities with no adopted CIL charging schedule in place. They are prevented from seeking planning obligations, which constitute a reason for granting planning permission, where this relates to the funding or provision of infrastructure and there have been five or more planning obligations entered into on or after 6 April 2010 for that same infrastructure.

DMPO

What is it?

The [Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#). The order governs the process of obtaining planning permission and the discharge of conditions including:

- how to apply for planning permission and what information should accompany the application
- what is the definition of reserved matters
- what is a design and access statement and when is one required.

Recent changes

The 2015 Order consolidates 15 amending orders made to the 2010 DMPO. Further changes have also been made, including provisions for the deemed discharge of planning conditions and a requirement for LPAs to provide written justification for the imposition of precommencement conditions.

EIA

What is it?

Environmental Impact Assessment.

Recent changes

The [Town and Country Planning \(Environmental Impact Assessment\) \(Amendment\) Regulations 2015](#) came into force on 6 April. They amend the threshold for screening? certain infrastructure projects to ascertain whether they are EIA development, thus requiring an environmental statement.

Fracking

What is it?

An abbreviated form of hydraulic fracturing.

Recent changes

The [Infrastructure Act 2015](#) authorises the use of deep-level land (defined as being at least 300m below surface level) for the exploitation of petroleum (notably shale gas and oil) and for deep geothermal energy. Operators will no longer have to seek rights of access from every individual landowner whose land is drilled under, or face a claim for trespass. There is no right to compensation for the individual landowner. Voluntary commitments to notify local communities of drilling works and to make community payments have been made.

GPDO

What is it?

The [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#) effectively grants planning permission for certain forms of development such as changes of use. PD rights can have restrictions and conditions imposed and may require prior approval of the LPA. It is the Order that enables, for example, the change of use of a restaurant or cafe (Class A3 of the Town and Country Planning (Use Classes) Order 1987) to a shop (Class A1) without obtaining planning permission.

Recent changes

The 2015 Order consolidates 22 amending orders made to the 1995 GPDO restructured into 19 themed parts. It also introduces additional PD rights, such as allowing retailers to erect 'click and collect' facilities within the curtilage of their existing premises subject to various restrictions and conditions.

JR

What is it?

Judicial review is a legal challenge against the decision of a public body, including decisions of local planning authorities (LPAs). It differs from a statutory challenge to a decision of the Secretary of State or an Inspector on a planning appeal under [section 288 Town and Country Planning Act 1990](#). The JR applicant must have 'sufficient interest' in the outcome of the claim. The planning claim form must be filed with the High Court no later than 6 weeks after the date on which the ground(s) to make the claim first arose.

A JR is not a reconsideration of the planning merits of the case. The court is concerned solely with the question of whether the LPA has acted lawfully in making its decision to grant planning permission. The court will consider whether there was any element of illegality, irrationality or procedural unfairness in the process. In the 2-stage process, permission must first be obtained from the court before proceeding to the substantive JR application. If the claim is successful, it usually results in the planning permission being quashed and the application being remitted back to the decision-maker for redetermination.

Recent changes

Changes arose in April 2015 as a result of the [Criminal Justice and Courts Act 2015](#) . Subject to an exceptional public interest test, the court may/must consider whether it appears highly likely that the outcome for the applicant would not have been substantially different if the conduct complained of had not occurred. At the permission stage, the court may consider the above question (and must if the defendant asks it to). If the answer is 'yes' then the court must refuse to grant leave. At the substantive JR stage, relief must be refused if the answer to the question is 'yes'.

LDO

What is it?

A local development order is essentially a tool to allow LPAs to grant additional permitted development rights. The LPA grants planning permission (via the LDO) for specific types of development within a specified area. The LDO can be permanent or time limited and can impose planning conditions.

Recent changes

The [Queen's Speech 2015](#) set out the government's target of getting LDOs in place on 90% of suitable brownfield sites by 2020.

NPS

What is it?

National policy statements are produced by the government and set out its objectives for the development of nationally significant infrastructure projects (NSIPs) in a particular sector. The documents are subject to public consultation and parliamentary scrutiny before they are designated. They provide the framework within which decisions regarding development consent orders for NSIPs are made. They are also a material consideration in the determination of planning applications. There are 12 designated or proposed NPSs, grouped under energy, transport, water, waste water and waste.

NPPF

What is it?

The [National Planning Policy Framework](#) was published on 27 March 2012. It sets out the government's planning policies for England and how these are expected to be applied. Statute dictates that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF must be taken into account in the preparation of Local and Neighbourhood Plans and is a material consideration in planning decisions.

Recent changes

A parliamentary review of the NPPF took place in 2015. There are no current plans to revise the document.

PPG

What is it?

The online [Planning Practice Guidance](#) , issued on 6 March 2014 consolidated 7,000 pages of guidance. The 47 topic areas, listed in alphabetical order, are constantly updated including advertisements, making an application and when is permission required.

Recent changes

Changes are regularly made to this online guidance.

TPO

What is it?

A Tree Preservation Order can be made by a local planning authority in England under section 198 of the [Town and Country Planning Act 1990](#) on the grounds that it appears to be:

'Expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'

A TPO protects a tree, a group of trees or a woodland and prohibits work (lopping, topping, root cutting, or felling) being carried out without the prior written consent of the LPA. The consent can be subject to conditions, and there are some exceptions, such as if the works are required to implement a full planning permission.

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Further information

- Related competencies include [Contract administration](#) , [Contract practice](#)
- This feature is taken from the RICS *Building surveying journal* (July/August 2015 and October/November 2015)