

Business and Planning Act 2020

The Business and Planning Bill 2019-2021 was introduced in the House of Commons on 25 June 2020 and was fast-tracked through Parliament. On 22 July 2020, the Bill received Royal Assent.

The Business and Planning Act 2020 (BPA 2020) introduces temporary and permanent measures designed to help certain business sectors reopen and operate in a socially distanced environment, to manage the ongoing risks from COVID-19.

Amongst other matters, Part 3 of the BPA 2020:

1) Extends the expiration of certain planning permissions and listed building consents

Planning permissions

Section 17 (extension of duration of certain planning permissions) comes into force on the 19 August 2020.

Under section 93A of the TCPA 1990, unimplemented planning permissions with time limits for implementation which are due to lapse between 19 August 2020 and 31 December 2020 are extended to 1 May 2021. This happens automatically, with no requirement to obtain additional environmental approval (AEA) (See further below).

Under section 93B, unimplemented planning permissions with time limits for implementation between 23 March 2020 and 19 August 2020 are restored and the time limit extended to 1 May 2021, subject to an AEA being granted.

Outline planning permissions

Section 18 (extensions in connection with outline planning permission) of the BPA 2020 comes into force on the 19 August 2020.

Outline planning permissions may have lapsed or be at risk of lapsing for the following reasons:

- Applications for reserved matters approval have not been submitted for determination within the period specified by a condition imposed on an outline planning permission.
- Development has not commenced.

The time limits for implementation relating to outline planning permissions are subject to extension in the same way as other planning permissions:

- Time limits for implementation due to lapse between 19 August 2020 and 31 December 2020 are automatically extended to 1 May 2021.

- Time limits for implementation between 23 March 2020 and 19 August 2020 are extended to 1 May 2021, if AEA is granted in respect of the relevant planning permission.

In addition, any deadline for the submission of a reserved matters application which would otherwise expire between 23 March 2020 and 31 December 2020 is extended to 1 May 2021.

Additional Environmental Approval

The purpose of AEA is to ensure that there have not been any changes since the original consideration of the environmental impact assessment (EIA) and habitats regulation assessment (HRA) which would make that consideration out of date.

No specific consultation is required by the LPA and there is no statutory requirement to publicise the application.

AEA should be granted where the LPA is satisfied either that:

- If an application for planning permission were made now, the development would not need EIA or HRA.
- If either or both assessments would be required, they had been undertaken for the original grant of planning permission and remain up to date.

No conditions can be attached to AEA.

The LPA should give reasons for their decision to either grant or refuse an application for AEA.

If there has been a change in the environmental circumstances of the development which would make the previous EIA or HRA out of date, the AEA should be refused, this means that the planning permission is not extended.

There is a right of appeal under section 78 of the TCPA 1990.

2) Varies construction working hour conditions

Section 16 of the BPA 2020 inserts new sections 74B into the TCPA 1990.

Section 16 came into force on 28 July 2020.

Section 74B introduces a new temporary fast track deemed consent route for developers to apply to an LPA to vary existing conditions, or the details submitted under a condition, that limit site working hours. This deemed consent route does not apply to mining operations or householder development.

Applicants will need to provide details of:

- The planning permission to which the application relates.
- The existing agreed construction working hours.
- Details to identify the condition or approved document which set out the working hours.

- The proposed revised construction working hours.
- The date the revised construction working hours should take effect.
- The date on which the application is sent.
- The date on which the revised construction working hours should cease to have effect (no later than 1st April 2021).

Applicants are encouraged to provide details of mitigation plans setting out how they propose to liaise with neighbours and manage and mitigate any effects on local residents or businesses.

No application fee is payable.

The LPA have 14 calendar days to consider an application. There are no publicity requirements. If an application is approved, planning restrictions on construction working hours are amended until 1 April 2021 (unless an earlier date is otherwise agreed).

Unless there are very compelling reasons, an LPA should not refuse an application to extend working hours until 9pm, Monday to Saturday. In some cases, 24-hour working may be justified.

If the LPA does not determine the application within 14 days, the revised working hours are deemed to have been consented to.

There is a right of appeal under new section 78(1) (ab) of the TCPA 1990.

Permitted Development Rights

Demolition and Rebuilding as Residential

A new permitted development right to allow vacant and redundant free-standing commercial and light industrial premises, and residential blocks of flats, to be demolished and replaced with new residential units comes into force on 31 August 2020. At the same time the right will allow up to 2 storeys to be added to the height of the original building, as long as the resulting residential building is no higher than 18 metres.

There are conditions and the right is subject to prior approval by the local planning authority.

Building up

New permitted development rights to build upwards allow up to 2 additional storeys on free standing blocks, up to a height of 30 metres, and on buildings in a terrace (of 2 or more buildings) in certain commercial uses. They also allow up to 2 additional storeys on existing houses, detached or in a terrace, to create new self-contained homes or additional living space up to a height of 18 metres. Single storey homes will be able to add 1 additional storey. There are conditions and a number of prior approvals are required including on specific matters including the external appearance of the proposed development and its impact on the amenity of neighbours. The regulations come into force on 31 August 2020.