

The Chief Planning Officer,
Local planning authorities in England

19 January 2010

DEVELOPMENT ON GARDEN LAND

There has been some concern expressed about the extent to which developers are redeveloping on existing domestic curtilage and to what extent local planning authorities feel that such development cannot be resisted on the basis that such development is on previously developed land.

The Government commissioned independent research on this matter and my purpose in writing is to inform you of a Ministerial statement issued on 19th January that outlines the Government's response to the findings of the research produced by Kingston University. In this statement a commitment was given to write to provide more detail on how the Government's position can be implemented by planning authorities.

The research finds that inappropriate building on back gardens is not a widespread, national or growing problem. A minority of authorities consider it to be of importance, mainly focussed in outer London and the South East, whereas the majority across the rest of the country do not. However, we do feel that there is merit in reminding local authorities that they already do have the means to address concerns where they exist, and that this is an issue best identified and dealt with locally.

First I would highlight the commitment in the Ministerial statement that we will clarify the advice in Planning Policy Statement 3, by moving some existing text from the definition of previously developed land (Annex B) to the main body of the document itself. This means that paragraph 41 of the PPS, which explains that brownfield land is the priority for development, will also now say that *"there is no presumption that previously developed land is necessarily suitable for housing, nor that all of the curtilage should be developed"*. PPS3 retains a focus on brownfield land, where this is suitable for housing.

The main focus of the Government's position therefore is that local authorities are best placed to develop policies and take decisions on the most suitable locations for housing and they can, if appropriate, resist development on existing gardens. Indeed, the report by Kingston University found that of the applications looked at in the review, the Planning Inspectorate supported four out of the five decisions made by local authorities in such circumstances. This was particularly true when these were supported by having local policies in place.

The statement also commits the Government to collecting better data on the amount of development taking place on garden land and we are currently working with Ordnance Survey to see how the previously residential category

in the Land Use Change Statistics could be amended to capture this information. I will provide further information on this in due course.

I have attached as an annex some comments on how specific policies might be developed, which I hope you will find useful. If you have any questions arising from this letter please contact william.richardson@communities.gsi.gov.uk

I am copying this letter to the Planning Inspectorate.

A handwritten signature in black ink, appearing to read 'Steve Quartermain', with a long horizontal line extending to the right.

STEVE QUARTERMAIN
Chief Planner

Annex

So under what circumstances should specific policies be developed, and what might they look like:

1. PPS3 already says that authorities can separate the brownfield target to set different targets for different type of brownfield land. This is in paragraph 43 of the policy. Part of this is about the authorities own priorities, and clearly explaining what these are. But it is also about the collection of robust evidence to inform decisions about the location for new housing. Through the completion of a Strategic Housing Land Availability Assessment, authorities should be identifying all the possibilities. If the required housing land supply can be provided without garden land then this can support a policy to protect garden land from development.
2. Once the evidence and priorities have been established, then local authorities must also be clear about how they have set out their approach to housing development in their plans, including the mix of brownfield and Greenfield sites, and the approach they need to adopt to ensure that the land supply is maintained in line with paragraphs 52 to 61 of PPS3, having regard to the viability of developing sites. See also my letter of May 2008.
3. If there is a lack of sites or the required 5 year supply of land is not available, then there are tough decisions to take. This may mean allowing development within existing residential areas, or releasing Greenfield sites, but these are decisions that should be made locally.
4. However, where the clear strategy to deliver housing on preferred sites is demonstrably working, then authorities may consider a policy to prevent development on gardens. Alternatively authorities could consider a policy which would set out clearly the circumstances in which garden development will be acceptable.
5. One issue to focus on in these policies is the density of development. This is the most common concern raised through correspondence to the Department on the subject of garden development, with a feeling that the creation of higher densities than the surrounding area is having a negative impact. Design is of paramount importance and many authorities have policies aimed at "*maintaining the character of an area*", and a focus on density may assist in promoting new development that is of a consistent size and type to surrounding properties, where this is felt to be appropriate.