

And A is for...

Andy Rogers compiles an alphabet of (often strange, new) planning terms



A is for Affordable Housing, which we don't have enough of: despite being redefined by the NPPF and NPG it doesn't seem to include small flats created by office to residential permitted development (see Technical Housing Standards, below).

B is for Brexit, which we have too much of. And for Building, which the courts have recently decided must be a single unit, not a terrace or row of houses, for planning purposes.

C is for Continuous Use, which (if unauthorised) must be carried on without interruption (for refurbishment, etc) if a 4-year established use application is to succeed (London Borough of Islington v SSHCLG and Another: 2019).

D is for Detached, which according to a PINS inspector does not apply to an outbuilding sited only 5 centimetres away from the rear wall of the house, held in effect to be an extension and therefore too large to be acceptable as permitted development.

E is for Environment Agency, which designates High Flood Risk areas where, the latest government figures show, around 24,000 homes were built in England in 2016/2017.

F is for Flood Defences, which due to the pressure for new homes are often used to justify building even in those very high risk areas, but which a Nottinghamshire woman who built her own (and was fined) discovered, must be authorised by planning approval.

G is for Green Belt, not to be confused with Greenfield or Metropolitan Open Land, both of which often have the same constraints applied.

H is for HMO, a House in Multiple Occupation, that can only have up to six occupants - woe betide one that gets pregnant because after nine months the HMO may no longer be legal.

I is for Incidental (or ancillary), which helps define both the principal use of a planning unit and the use that can be made of an outbuilding using permitted development rights: many and varied are the examples of garages, sheds and caravans close to houses that may contain an office, studio, games room or gym - but never a separate residence.

J is for Justified: so the incidental use of such an outbuilding can be wide-ranging but must be subordinate and connected with the running of the house or the domestic, recreational or leisure activities of its occupiers.

K is for a Kiosk selling ice-cream in Mablethorpe, East Lindsey, that an appeal inspector decided was unacceptably garish, causing "significant harm to the character and appearance of the area" - an open seaside car park: *see illustration*.

L is for Loss, of something material in planning terms, that may need formal approval. Loss of a view doesn't count of course, but loss of a flat (when combining two to form one larger apartment or home) has been held to be material even when there would be no amenity or environmental impacts (Kensington and Chelsea RBC v SCLG & Reis & Tong: 2016).

M is for Motherhood and Apple Pie, which are the main ingredients of the government's just published National Design Guide - even though motherhood is non-pc as it excludes fathers and apple pie has far too much sugar to be healthy.



N is for Notification, which is critical for the handling of prior approval under permitted development rules, because once an application for such permission has been made (made, not validated) then the failure of the planning authority to issue a decision within the relevant statutory timescale means that approval is automatically granted, even if the applicants have agreed to allow the authority more time - which they cannot do, according to the High Court (R on the application of Warren Farm (Wokingham) Ltd v Wokingham Borough Council: 2019).

O is for Outlook, which can be a material consideration in planning but not, apparently, when a view is lost (see Loss, above), or when permitted development is concerned, for example in providing homes without windows that otherwise have all the required facilities for day-to-day living (see Technical Housing Standards, below).

P is for POCA, the Proceeds of Crime Act, which is increasingly used to reclaim the ill-gotten gains made when planning procedures are ignored: recently making the owner of a small house in Hayes that had been used illegally as an HMO pay £426,000 plus £4,000 expenses.

Q is for Queen Bees, the breeding of which has been classified on appeal as an agricultural activity for the purposes of providing a unit under permitted development rules, although this was not extended to the processing and jarring of honey, which is (clearly) light industry.

R is for Realtor, the American word for an Estate Agent now superseded by PropTech, which is the new buzzword for digital property marketing (*do keep up*).

S is for section 73 of the Town and Country Planning Act 1990 [yes, maybe it's time we had a new one] which according to Lord Justice Lewison's recent Appeal Court ruling has been specifically restricted to the altering of conditions attached to a planning permission, as long as this does not change the nature or extent of the development in any way. And following a High Court case, conditions imposed on prior approvals can also be removed/varied by using section 73 (Pressland v Hammersmith & Fulham LBC: 2016).

T is for Technical Housing Standards, the 2015 DCLG nationally described space standards that stipulate a minimum internal floor area area of 39 sq.m. for a one-person unit within which a kitchen and living area, bed-space, shower and WC must be provided so as to qualify in planning terms as a dwelling-house: advisory and recommended, but not always achieved - if the basic facilities are provided the gross area can be much smaller, as appeals have shown.

U is for UCO, the 1987 Use Classes Order that has been amended nine times but is now rather outdated (a consolidated revision was promised in 2015). It has 15 classes with a further 37 sub-divisions and 15 exclusions such as theatres, casinos, hotels and launderettes: over-complicated or what?

V is for Validation (see also Notification above), not to be confused with Viability: but that's another story and a whole new can of worms...

W is for Waste Incineration, which has over many years proved extremely difficult to get planning approval for due to persistent applications to the courts by objectors. See also F for Fracking (also controversial and removed from this article due to the general election).

X is for X-rated uses, like sex shops and fast-food outlets, that cannot be sited near schools.

Y is for Yurt, or is it a caravan by another name? the planning system can tell you (see UCO).

Z is for Zilch, another American word.

[That's enough alphabet - ed.] ■

...vether it's worth while goin' through so much to learn so little, as the charity-boy said ven he got to the end of the alphabet, is a matter o' taste

– Charles Dickens, *Pickwick Papers*, 1837