

# A planning policy quiz for 2014

The answers may (or may not) be helpful and include reference details where possible. Good luck!

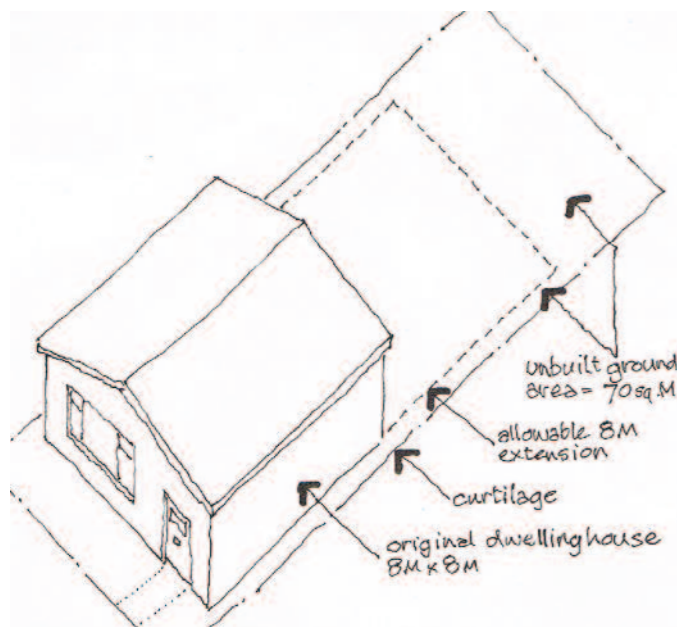
Would you like to have a multiple choice?  
(a) No; (b) Yes; or (c) Maybe

**Question 1.** Why was an enforcement notice requiring the removal of a temporary telecommunications mast in greater Manchester struck down? Was it  
(a) because the mast looked like a tree;  
(b) because there was a temporary permission in place that had not expired; or  
(c) because greater Manchester does not have widespread broadband cover.

**Question 2.** How long did it take the Government to produce a draft National Policy Statement for Transport infrastructure as required by the 2008 Planning Act? Was it  
(a) just over one year;  
(b) just over three years; or  
(c) just over five years.

**Question 3.** Mr and Mrs Jones own a detached seaside bungalow that is 8 metres square on a plot measuring 9 metres wide by 22 metres long. Under current permitted development rules how large can their new single-storey rear extension be? Is it  
(a) 4metres x 4metres;  
(b) 4metres x 8metres; or  
(c) 8metres x 8metres.

If answering Question 3, look away now:



**Question 4.** In deleting a seasonal occupancy condition relating to caravans at a holiday park in Wales, what aspect of all-year-round occupation of the caravan park did the appeal Inspector conclude would not have a significantly harmful effect? Was it  
(a) the effect on the coastal landscape;  
(b) the effect on the Welsh language; or  
(c) the effect on the local slate quarry.

**Question 5.** What feature did an appeal Inspector refuse to authorise the removal of in a Devonshire Grade II\* listed country house? Was it  
(a) the nursery staircase;  
(b) a suit of armour; or  
(c) an inglenook fireplace.

**Question 6.** What does the Localism Act's duty to co-operate require all local planning authorities to agree with neighbouring authorities? Is it  
(a) cross-boundary allocations of new housing;  
(b) integration of transport networks; or  
(c) emerging policies for waste disposal.

**Question 7.** Where grounds arise for a judicial review of any planning matter, what is now the time limit for an application to the courts? Is it  
(a) promptly, but within six weeks;  
(b) promptly, but within three months; or  
(c) promptly, but without a specified limit.

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**Question 8.** How can "mineral extraction" (which according to paragraph 90 of the National Planning Policy Framework is appropriate in the green belt) be defined following a recent court case? Is it  
(a) carrying out an initial investigation;  
(b) setting up a drilling rig; or  
(c) digging a large hole.

**Question 9.** Where should you measure the face of a new roof dormer from for it to be allowed as permitted development? Is it  
(a) 20cm from the outside edge of any guttering;  
(b) 20cm from the fascia board of the eaves; or  
(c) 20cm from an imaginary line drawn up through the roof from the outside wall.

**Question 10.** Why was a local news item on BBC1 that showed a Croydon office block being converted into flats "without planning permission being required" incorrect? Was it  
(a) because the offices were still partly occupied;  
(b) because all the windows were being replaced; or  
(c) because Croydon is exempt from the permitted development change of use rules.

**Question 11.** Why did a Derbyshire council refuse to issue a Class E certificate of lawful development for a large garden room that was built into a slope and therefore partly underground? Was it  
(a) because a garden room would not be incidental to the enjoyment of the dwelling;  
(b) because the engineering work involved would not be permitted development; or  
(c) because Class E relates to swimming pools.

**Question 12.** Why did an appeal Inspector refuse to issue a Class E certificate of lawful development for a large garden room in Bedfordshire? Was it  
(a) because the uses (gym, snooker room, bar, toilet, office, etc) would be excessive;  
(b) because the space was larger than that required for an incidental use; or  
(c) because he got out of bed on the wrong side that morning.

## ANSWERS

**Question 1.** (b) The Council made the mistake of issuing an Enforcement Notice before the temporary permission had expired, rendering it invalid because the breach of control had not occurred when the notice was issued (even though the period for compliance took >>>

it beyond the permission's expiry date). Several enforcement notices have recently been struck down (often with an award of costs against the Council) where they are not legally correct or sufficiently specific. For example, requiring a use to cease "immediately" was held to be invalid because immediately is not a "period of time" for compliance, as required by the Planning Act.

**Question 2.** (c) The Act came into force at the end of November 2008 and a draft national policy statement on road and rail networks was published on 4 December 2013 (air and waterway transport is still not included – so much for joined-up thinking).

**Question 3.** (c) The latest amendment to the General Permitted Development Order that allows an 8-metre full-width rear single-storey extension subject only to the prior notification procedure may not have anticipated the doubling in size without planning permission of many detached bungalows across the country. See diagram.

**Question 4.** (b) The appeal Inspector identified the main issues as the effect on policies that aimed to restrict the development of houses within the area and the effect on the Welsh language (presumably due to an influx of non-Welsh holidaymakers). The council had commissioned its own assessment "which concluded that all-year-round occupation of the caravan park would not make a difference when viewed across a spectrum of linguistic and cultural criteria". Many planning decisions are now based on an increasingly wide range of technical reports!

**Question 5.** (a) The removal of the nursery staircase, that allowed children, their nannies and family members to have access between the school room on the ground floor and the children's bedrooms and nursery above without the need to mix with visitors to the more formal 'downstairs' parts of the mansion, would fail to preserve the special interest of the house. The appellants argued that attitudes to children had changed (!) and the staircase represented a fire hazard - perhaps a technical fire prevention report would have helped gain approval.

**Question 6.** None of these. The duty is to co-operate (and to demonstrate in Local Plan Documents that this has been done), not actually to agree anything. At examination,

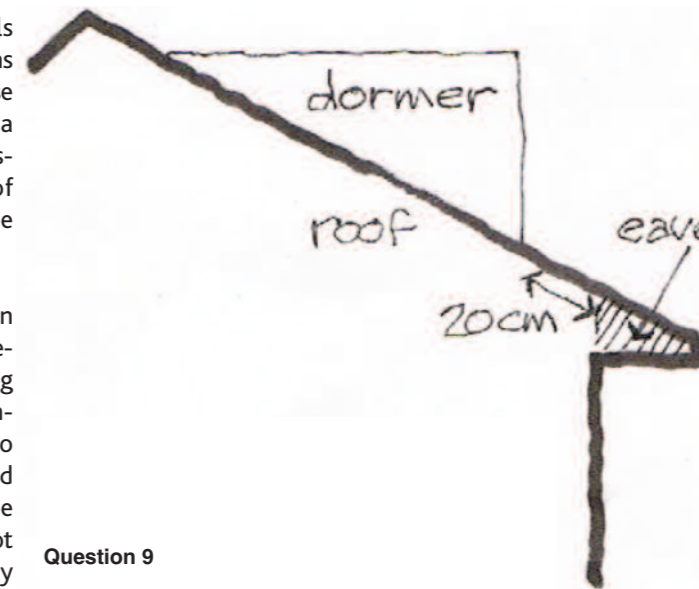
several District Councils have had their local plans declared unsound because they had not undertaken a sufficiently rigorous cross-boundary assessment of one or more of these issues.

**Question 7.** (a) Delay in bringing proceedings, especially to challenge planning approval, may cause considerable prejudice to developers and to third parties. Previously the time limit was "promptly" (not held to be sufficiently clear/precise) and anyway within three months. The Civil Procedure (Amendment No.4) Rules 2013 have changed this to promptly and within six weeks, with the same limit for going to the Court of Appeal by written request (oral submissions are no longer allowed).

**Question 8.** (a) A recent court decision held that speculative exploration for, and appraisal of, hydrocarbons does amount to "mineral extraction": the judge said it would be illogical to exclude the exploration and appraisal stages from the definition because they are necessary steps before minerals can be extracted. This judgment may affect fracking exploration works, but is subject to further appeal.

**Question 9.** (c) In the High Court a judge has ruled that the eaves of a roof consist of a discrete section of the roof structure, starting at the point where it intersects with the wall and projecting outwards, and the measurement should be taken from the innermost part of the eaves, not from the outermost face. This means that the DCLG's Technical Guide is wrong in law (although not in my view in commonsense taking the intention of the wording which is to create a visual setback). See diagram: the required 20cm is now to be measured from the eaves to the dormer along the roof plane.

**Question 10.** (b) The permitted development in respect of offices to residential is for change use only and does not include any external physical changes, which will require planning permission (subject to section 55 of the Town and Country Planning Act that



Question 9

defines development – ie not including painting, etc). The only areas that were exempted are defined central activities zones in the City of London, Camden, Islington, Hackney, Tower Hamlets, Southwark, Lambeth, Wandsworth, Westminster; the whole of Kensington & Chelsea; and a number of smaller areas in Manchester, Stevenage, Sevenoaks, etc. So no outer London borough areas were exempted – and this decision has been upheld following a judicial review.

**Question 11.** (b) Class E does relate to swimming pools, as well as a wide range of other uses (dog kennels, chicken coops, games rooms, home offices, studios, etc – provided they are "incidental" and not "supplementary", as bedrooms or dining rooms might be). The inspector who allowed the appeal noted that a swimming pool is likely to involve significant engineering works and therefore these are included within the scope of the General Permitted Development Order.

**Question 12.** (b) At 117 square metres the multi-use building was held to be supplementary to the existing dwellinghouse, not incidental. The appellant had not made clear exactly how intensively or how often all the proposed areas would be used and why such a range of facilities was required "having regard to all the circumstances". Whether these circumstances included which side of the bed the Inspector got out of is not recorded. ■

Ten correct answers gives you two hours CPD! – Ed