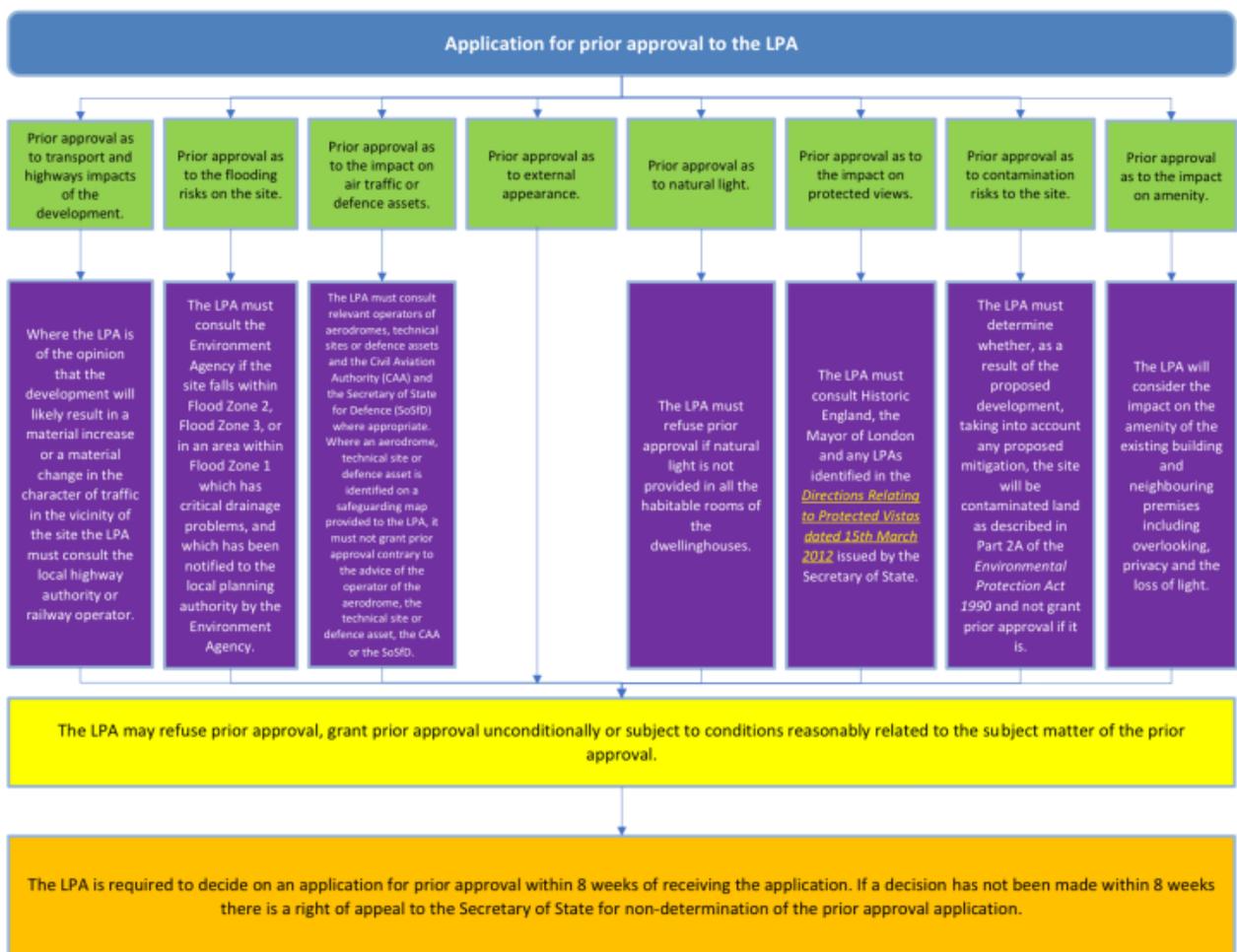
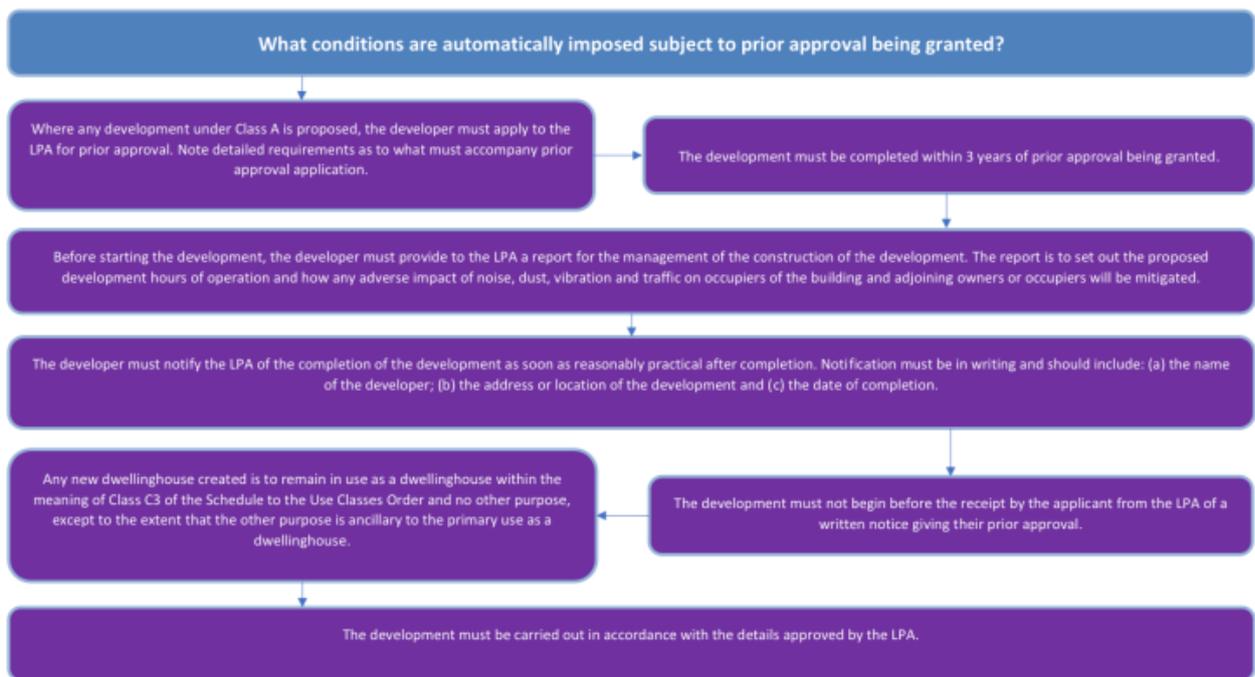


Town Legal charts for building upwards

LLP

This is a summary only and does not constitute detailed legal advice. Provisions as at 1 August 2020.
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4151-9290-4229, v. 1

Clive Betts, chair of the Housing, Communities and Local Government Committee, set out a number of specific questions in his 8 July 2020 [letter](#) to MHCLG Minister of State Christopher Pincher:

- “What will the Government do to ensure that basic standards, including minimum room sizes and guarantees of amenity space, will apply to new PDRs.”

- “What will the Government do to ensure that local authorities do not, as a consequence of new PDRs, miss out on the funding they need to provide vital infrastructure and affordable housing for their communities?”

- (With reference to the proposed Building Safety Bill, which will implement a new fire safety regime) “Could you confirm...that where a building is extended in height above 18 metres (or six storeys) through the new PDR, that it will then fall under the scope of the new building safety regime?”

- “What rights will local authorities have to object to a scheme which damages the local streetscape?”

- “How will the rights of existing business, e.g. pubs and restaurants, be protected to ensure that they can continue to operate in an area changing its mix of development?”

- “What research has the Government undertaken into the potential impact on leaseholders of these changes and what protections will the Government put in place to ensure that they are not financially disadvantaged as a consequence?”

(We now have further detail in relation to the proposed Building Safety Bill, referred to in that third bullet point. MHCLG has published its 18 July 2020 press statement [Landmark building safety law to keep residents safe](#) and accompanying [guide](#).

Aside from those substantive concerns, which will equally apply to the proposed “*demolish commercial to replace with residential*” permitted development right, there are inevitably a number of uncertainties as to various aspects of the “*building upwards*” right. For instance:

- Does the existing building have to be entirely in residential use? What if, say, there are any commercial units on the ground floor?

- What is the scope for the local planning authority to refuse prior approval on the basis of effect on amenity, overlooking, privacy and loss of light? If any exercise of the right would lead to one or more of these problems, due to the inherent circumstances of the building, can the local planning authority refuse permission even if that thwarts the owner’s ability to rely on the right?

- What amounts to “*completion*” and what are the practical implications of the development having been substantially carried out but not completed by the three years’ deadline?

Any project to construct additional storeys onto an existing block of flats also of course brings all manner of private law complexities: a minefield of landlord and tenant, building management, private nuisance and rights to light issues for example. It is often not the need for planning permission that scuppers the proposal.