

EVEBRIEF

Legal & Parliamentary

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DRAFT NATIONAL PLANNING POLICY FRAMEWORK – ROUND 2



Tony Chase
Editor

Further controversy over the Government's draft NPPF, on which we reported in our 01 August edition of Evebrief, hit the national press as we were finalising this edition. The Planning Inspectorate, in an advice note released on 30 August, has advised inspectors that the draft NPPF is likely to be referred to in current appeals and development plan work and that, although it is still a consultation document, it gives a clear indication of the Government's 'direction of travel' and is therefore capable of being a material consideration. Inspectors are accordingly 'strongly advised' to familiarise themselves with the draft, although the weight to be given to it will be 'a matter for the decision maker's judgement in each particular case.'

Ministers are strongly supportive of the Framework but were distancing themselves from the advice, saying that they had not instructed the Inspectorate to issue it, and the National Trust, which has fiercely

opposed the Framework, was quick to criticise the 'flawed' way in which it considered that it is now being implemented. The Inspectorate claimed that it issued it as a matter of normal procedure and pointed out that it does no more than state what always applies when a draft policy is published for consultation.

The Government meanwhile, in order to address concerns and criticisms aimed at the Framework, has issued a 'Myth-Buster' seeking to allay fears – stating firmly, amongst other things, that Green Belt land will continue to enjoy its current level of protection and that the presumption in favour of sustainable development will not be a 'green light' for developers.

The consultation period ends on 17 October. No doubt we shall have a great deal more to report once the responses have been analysed and published.



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LOCAL GOVERNMENT

01 CLG Publication

Local Government Resource Review: Proposals for Business Rates Retention: Technical papers – An overview

On 18.07.11 the Government published a consultation paper, Local Government Resource Review: Proposals for Business Rates Retention, setting out its proposals for a rates retention scheme to replace the current local government finance system, under which business rates would be distributed as part of formula grant. This overview provides a technical summary of how the scheme would work with pointers to the more detailed elements which are contained in a series of eight technical papers. These papers are:

- Paper 1 – Establishing the baseline
- Paper 2 – Measuring business rates
- Paper 3 – Non-billing authorities
- Paper 4 – Business rates administration
- Paper 5 – Tariff, top up and levy options
- Paper 6 – Volatility
- Paper 7 – Revaluation and transition
- Paper 8 – Renewable energy

The consultation paper and these technical papers, the links to which are set out below, raise a number of questions about the proposed rates retention scheme on which the Government is seeking views before 24.10.11.

<http://www.communities.gov.uk/publications/localgovernment/resourcereviewtechnicalpapers>

<http://www.communities.gov.uk/publications/localgovernment/resourcereviewtechnicalpaper1>

<http://www.communities.gov.uk/publications/localgovernment/resourcereviewtechnicalpaper2>

<http://www.communities.gov.uk/publications/localgovernment/resourcereviewtechnicalpaper3>

<http://www.communities.gov.uk/publications/localgovernment/resourcereviewtechnicalpaper4>

<http://www.communities.gov.uk/publications/localgovernment/resourcereviewtechnicalpaper5>

<http://www.communities.gov.uk/publications/localgovernment/resourcereviewtechnicalpaper6>

<http://www.communities.gov.uk/publications/localgovernment/resourcereviewtechnicalpaper7>

<http://www.communities.gov.uk/publications/localgovernment/resourcereviewtechnicalpaper8>

<http://www.communities.gov.uk/publications/localgovernment/resourcereviewcalculator>

LANDLORD & TENANT

02 CLG Publications

Top tips for landlords: Assured shorthold tenancies Top tips for tenants: Assured shorthold tenancies

These tips are, respectively, for landlords who have let or intend to let a property on an assured shorthold tenancy and for people who are, or are considering becoming, assured shorthold tenants. This type of tenancy is likely to arise if:

- the landlord is private;
- the tenancy began on or after 28.02.97; and
- the house or flat is let as separate accommodation and is the tenant's main home.

<http://www.communities.gov.uk/publications/housing/tipslandlordsassuredshorthold>

<http://www.communities.gov.uk/publications/housing/tipstenantsassuredshorthold>

03 High Court

Tenant moved to different premises to enable landlord to carry out repairs – claim for damages for economic loss caused by abandonment of business venture owing to time taken with dispute

**EATON SQUARE PROPERTIES V SHAW
(2011) PLSCS 209 – Decision given 29.07.11

Facts: The defendant, S, was a regulated tenant of premises owned by the claimant, ESP. When the premises became in need of substantial repair it was agreed that S would move into another of ESP's properties. A lengthy dispute arose between the parties regarding works which ESP agreed to carry out to the new property and S paid a much lower concessionary rent. In 2009 ESP brought proceedings against S for possession on the ground of rent arrears of over £30,000. S's defence was that ESP was estopped from claiming rent above the rate that she currently paid. Later S was given permission to amend her defence and counterclaim to include a claim for damages of £14m against ESP on the grounds that the dispute over the works had taken up all her time and energy over many years which meant that she had had to abandon a business project which relied on her personal commitment. She sought to recover the income that she claimed she would have received from it.

Point of dispute: Whether ESP's appeal from the decision to permit the amendment to S's defence would be allowed.

Held: ESP's appeal was allowed and the relevant parts of S's amended defence should be struck out. Permission for amendments should be refused where:

- i. the proposed amendments did not disclose a cause of action and could be struck out under CPR 3.4; and
- ii. the claim had no proper or sufficient evidential base to persuade the court that it had a reasonable prospect of success.

In any event, S's claim was not arguable as a matter of law, as the alleged duty of care, to protect S from economic loss, arose in tort not in contract. EPS had not undertaken a duty of care to prevent S from losing the opportunity to make money from her intended business venture; the purpose of the move and associated works was not to assist S's business but to relocate her and make the new premises fit for her to live in. S could not recover economic loss that was unconnected with the relationship of landlord and tenant between her and ESP.

04 High Court

Claimant company occupying business premises under purported periodic tenancy – first defendant acquiring lease of premises on change of ownership – whether claimant retaining rights of occupation as tenant under implied periodic tenancy

* MANN AVIATION GROUP (ENGINEERING) LTD
(IN ADMINISTRATION) V LONGMINT AVIATION LTD
(2011) PLSCS 219 – Decision given 19.08.11

Facts: A freeholder of an airport granted a lease of land to FHL, part of the AM group of companies. FHL granted an underlease of the premises to FAL, another company in the group, whose subsidiaries, including MAG which also occupied several buildings, ran the airport. The sums paid by MAG for its occupation were described as rent in its accounts. In July 2007, upon its acquisition of the airport and all the companies in the AM group, including MAG, the L group granted a lease of the premises to the first defendant LA. The lease stated that LA might share occupation of the property with a member of the same group provided that the arrangement did not establish a landlord and tenant relationship. MAG went into administration, but the administrators rejected LA's offer to purchase its business in favour of an offer by the second defendant.

Point of dispute: Whether MAG was entitled to allow the second defendant into possession of the premises. MAG argued that it continued to enjoy rights of occupation as a tenant since, by virtue of the Land Registration Acts of 1925 and 2002, a periodic tenancy had been granted by FAL to MAG, which was an overriding interest. It argued that its rights in relation to the premises were governed by that tenancy and were not qualified or limited by anything in LA's lease. LA's argument was that MAG had surrendered its periodic tenancy when the LA's lease was granted in 2007.

Held: MAG's argument was accepted. The relationship between FAL and MAG was intended to be that of landlord and tenant with the attendant protection afforded to MAG by the Landlord and Tenant Act 1954. This was beneficial to MAG and to FAL and the AM group as it indicated to the outside world that MAG's business was secure and viable. From the circumstances it was clear that the parties intended the tenancy to be a periodic one. At no time did MAG's conduct indicate an intention to give up the tenancy after July 2007 or an acceptance that it had terminated. It was an implied term of the tenancy that MAG should pay rent, but since it had not failed to do this the first defendant was not entitled to forfeit its tenancy. MAG continued to have a right to occupy the premises and LA had not given notice to terminate it.



PLANNING

05 High Court

Screening Direction

* HARGREAVES V SEC OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT
(2011) All ER (D) 33 (Aug) – Decision given 02.08.11

Facts: CLP sought planning permission to erect two wind turbines on a site 5km away from the Morecambe Bay Special Protection Area (SPA). The SPA hosted a range of bird species, including pink-footed geese which commuted up to 10km inland from coastal roosting sites in order to feed on winter cereals. It was accepted there was a risk that up to about 50 geese a year would collide with the turbines if the development were to proceed and planning permission for it was refused twice because of the effect on the geese. An inspector was appointed by the Sec of State to conduct an appeal. Natural England accepted CLP's mitigation scheme of maximising goose feeding areas. Although the Ipa, H (the claimant), and others objected to the scheme on the grounds of its visual impact and the effect on the geese, the environmental impact screening concluded that the likely impact of the development was not of such significance as to warrant an environmental survey. Following a direction issued by the Sec of State that it was not an EIA development the inspector allowed CLP's appeal and granted planning permission.

Point of dispute: Whether H's application under s288 of the Town and Country Planning Act 1990 for an order quashing the grant of planning permission would be allowed. H submitted that: (i) the decision to make a negative screening direction was unlawful or irrational; and (ii) the inspector had erred in failing to conduct an appropriate assessment in accordance with Art 6 of Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora ('the Directive') and/or reg 66 of the conservation of Habitats and Species Regulations 2010 ('the Regulations').

Held: H's application was dismissed.

- i. On the evidence there was nothing to suggest that the Sec of State had acted unlawfully or irrationally in making the negative screening direction; nor had the inspector acted unlawfully or irrationally in failing to remit the direction for further consideration by the Sec of State.
- ii. The Directive and the Regulations were concerned with likely significant impacts on the site and not the species. The inspector had not acted unlawfully or irrationally in granting planning permission subject to conditions rather than dismissing the appeal. The mitigation measures were integral to the proposal and the inspector was bound to take them into consideration when considering CLP's appeal.

06 Statutory Instrument

**SI 2011/2054 The Planning Act 2008
(Commencement No 7) Order 2011**

Article 2 of this Order brings into force, on 01.10.11, the following provisions of the Act, in relation to England and Wales and, to the extent specified in s240(4) of the Act, to Scotland, so far as they are not already in force:

- s14(1)(p) (nationally significant infrastructure projects: general);
- s30 (hazardous waste facilities); and
- s153 and Schedule 6 (changes to, and revocation of, orders granting development consent).

<http://www.legislation.gov.uk/uksi/2011/2054/contents/made>

07 Statutory Instrument

SI 2011/2055 The Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011

These Regulations, which come into force on 01.10.11, set out procedural provisions in respect of applications under Schedule 6 to the Planning Act 2008 and for the payment of fees for such applications. The 2008 Act established the Infrastructure Planning Commission and provides for the granting of development consent for certain types of nationally significant infrastructure projects. Section 153 and Schedule 6 to the Act contain provisions concerning changes to, and the revocation of, orders granting development consent after they have been granted.

<http://www.legislation.gov.uk/uksi/2011/2055/contents/made>

08 CLG Letter to Chief Planning Officers

Letter to Chief Planning Officers: Planning support for businesses and shops

This letter dated 12.08.11 to Chief Planning Officers asks them to consider ways in which planning powers can be used to help businesses and shops to restore premises which have suffered damage during the recent riots, eg prioritising planning applications for rebuilding and the use of Local Development Orders to grant automatic planning permission for the installation of security shutters or alterations or extensions to shops. The Government is also proposing to consult on whether security shutters and other security measures should be permitted development.

<http://www.communities.gov.uk/publications/planningandbuilding/shopsbusinessesletter>

09 CLG Policy Statement

Policy statement – planning for schools development

This policy statement is designed to facilitate the delivery and expansion of state-funded schools through the planning system. It follows and strengthens the guidance on planning for schools development contained in the Written Ministerial Statement of July 2010 and states that the following principles should apply with immediate effect:

- there should be a presumption in favour of the development of state-funded schools, as expressed in the National Planning Policy Framework
- local authorities should give full consideration to the importance of enabling the development of state-funded schools in their planning decisions
- local authorities should make full use of their planning powers to support state-funded schools applications
- local authorities should only impose conditions that clearly and demonstrably meet the tests set out in Circular 11/95
- local authorities should ensure that the process for submitting and determining state-funded schools' applications is as streamlined as possible
- any refusal of an application for a state-funded school, or the imposition of conditions, will have to be clearly justified by the local planning authority
- appeals against any refusals of planning permission for state-funded schools should be treated as a priority
- where an lpa refuses permission for a state-funded school, the Sec of State will consider carefully whether to recover for his own determination appeals against such refusal

<http://www.communities.gov.uk/publications/planningandbuilding/planningschoolsstatement>

10 CPRE Research Report

Communities, Planning and Localism

This report sets out the key points from a study commissioned early in 2011 by CPRE Gloucestershire. The project brief was to contribute to the unfolding government policy on localism by reviewing the effectiveness of community involvement in neighbourhood planning in the area of Parish Plans and Village Design Statements. Urban practice was also considered briefly. The main conclusions were as follows:

- there was found to be widespread support for the principle of localism and neighbourhood planning
- CPRE was made aware of the many planning techniques that are already being used by communities
- only a few aspects of Neighbourhood Plans were seen to be adding anything useful
- many respondents foresaw practical difficulties in preparing and implementing Neighbourhood Plans
- others concluded that a combination of community planning techniques might be the best approach for individual communities
- it was noted by some respondents that the time and cost involved in the Localism Bill hardly justified what were perceived to be the minor changes that it would introduce

<http://www.cpre.org.uk/resources/housing-and-planning/planning/item/2394-communities-planning-and-localism>

11 CLG Publication

Database on Local Development Frameworks: Closure report – end December 2010

Between 2005 and the end of 2010 data was gathered and recorded on the Local Development Framework Database on the progress of plans and documents being prepared by councils under existing planning legislation and guidance. Procedures are being streamlined through the Localism Bill and the Government now gathers information from the Planning Inspectorate on the production of local plans when they are submitted. It has also moved away from the complex local development framework terminology in order to allow councils the flexibility to decide how best to provide local plans for their area. This report presents a historic record of local plans progress as of January 2010 and an update on local plan preparation up to June 2011.

<http://www.communities.gov.uk/publications/planningandbuilding/ldfdatabasereport>



12 British Waterways (BW) Guidance

Guidance for development of new residential mooring sites

BW has developed its Residential Mooring Policy in response to the significant demand for residential moorings and the complexities of living afloat. In 2010 the Association of Inland Navigation Authorities published an advisory document on the residential use of waterways, and this guidance complements that advice by setting out the practical issues that need to be considered when planning for residential moorings. The guidance is aimed at:

- mooring operators wishing to set up a site on a BW waterway
- local planning authorities when they consider planning applications for residential mooring sites, and in preparing local development frameworks
- residential boaters and other parties who may have an interest in residential moorings on BW waterways

It includes useful information on the following:

- matters that local planning authorities may consider in determining a planning application for a new residential mooring site
- facilities required on site to support residential mooring use of land
- case studies of existing residential mooring sites
- research into customer preferences
- BW's policy and useful references

http://www.britishwaterways.co.uk/media/documents/British_Waterways_guidelines_for_residential_mooring_sites_May_2011.pdf

HOUSING

13 CLG Statistics

House Price Index – June 2011

- in June UK house prices decreased by 2% over the year, but increased by 0.6% over the month (seasonally adjusted)
- the average mix-adjusted UK house price was £204,981 (not seasonally adjusted)
- average house prices were 0.5% lower over the quarter to June, unchanged from the quarter to March (seasonally adjusted)
- average prices decreased during the year in all parts of the UK: in England by 1.8%, in Scotland by 2.3%, in Wales by 5.6% and in Northern Ireland by 8.1%
- prices paid by first time buyers were 2.2% lower on average than a year earlier and prices paid by former owner occupiers decreased by 2%
- prices paid for new properties were 3.2 % higher on average than a year earlier, whilst prices paid for pre-owned dwellings fell by 2.4%

<http://www.communities.gov.uk/documents/statistics/pdf/1966772.pdf>

14 CLG Statistics

House Building: June Quarter 2011, England

These latest statistics were released on 18.08.11 and relate to the period April to June 2011. Key points are as follows:

- there were 23,400 house building starts, 9% fewer than in the previous quarter
- there were also fewer housing completions, down 4% from 29,020 in the March quarter to 27,750 in the June quarter. This compares to a 23% rise between the December 2010 and March 2011 quarters
- in the 12 months to June 2011 there were 98,300 housing starts, 2% less than in the previous 12 months, and housing completions were also down by 4% to 107,220

<http://www.communities.gov.uk/publications/corporate/statistics/housebuildingq22011>

15 Homes and Communities Agency (HCA) Statistical Publication

Monthly Housing Market Bulletin – 23 August 2011

- London is the only region where house prices are not falling, according to RICS
- DCLG's house building statistics report that both starts and completions are down on the last quarter, by 9% and 4% respectively
- the number of loans advanced for house purchases rose by more than a fifth over the last month, and by almost a quarter in the case of first time buyers
- the number of buy-to-let loans taken out during Q2 2011 was the highest since Q4 2008
- the number of repossessions in Q2 2011 was 7% less than in Q1 2011
- in Q2 2011 GDP increased by 0.2%, lower than the 0.5% increase seen in Q1

<http://www.homesandcommunities.co.uk/sites/default/files/our-work/housing-bulletin-aug2011.pdf>

16 Consultation by the Mayor of London with the London Assembly and the GLA group

A revised London Housing Strategy – initial proposals

The first statutory London Housing Strategy was published in February 2010 since when there have been major changes in the allocation of government funding for housing and changes introduced by the Localism Bill, which include new housing and regeneration powers for the Mayor of London. The 2010 Strategy has therefore been reviewed and the Mayor's initial proposals for the new Strategy were published on 31.08.11. The London Assembly and the GLA Group (the London Development Agency, Transport for London, the London Fire and Emergency Planning Authority and the Metropolitan Police Authority must respond to it by 28.10.11.

<http://www.london.gov.uk/publication/revised-london-housing-strategy-initial-proposals>

17 Greater London Authority – London housing market report

London Housing Market Report – Quarter 2, 2011

This report summarises key trends in London's housing market, including prices, affordability, repossessions and new housing construction. The report is based on the latest available data as of mid-August 2011. The following are of note:

- national economic growth has been very weak so far in 2011, unemployment remains high and wage growth low
- new mortgage lending has stabilised at a low level
- London is the only region in England where average house prices have risen over the last 12 months
- average private sector rents are growing faster in London than any other region
- home ownership has on average become more affordable for those who already own homes with mortgage interest payments falling as a proportion of income.

<http://www.london.gov.uk/publication/london-housing-market-report-quarter-2-2011>

TORT

18 Court of Appeal

Damages for trespass

* RAMZAN V BROOKWIDE LTD
(2011) PLSCS 216 – Decision given 19.08.11

Facts: A property which M purchased from B Ltd comprised a restaurant on the ground floor with a function room above. There was also a storeroom only accessible from M's property which was a flying freehold at first floor level over adjacent premises owned by B Ltd, which also acted as a fire escape. When M's title was registered the storeroom was not included. B Ltd transferred its adjacent property to a subsidiary (B) and title to it, including the store room, was registered in B's name and the property was subsequently converted into flats. M's property was subsequently transferred to R, who sought a declaration that B should not be the registered proprietor of the storeroom, that he had been deprived of the use and enjoyment of his property and an order for rectification of the Land Register. He also sought aggravated or exemplary damages or both. B Ltd was held liable to R in damages for the continuing infringement of his rights to enjoy the use of his property.



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Point of dispute: Whether B Ltd's appeal would be allowed against the awards of damages made in the court below – these totalled £588,517.43 for damages for loss of profit relating to the function room, breach of trust, mesne profits, loss of access to the fire escape and exemplary damages. B Ltd argued that the judge had erred in law by treating the various heads of damages separately and that they should have been considered overall in case of duplication.

Held: The appeal was allowed in part.

1. The judge's assessment of damages for loss of profit when the first floor function room business did not exist at the time when R acquired the premises was incorrect. R's only claim was that the continuing trespass prevented him from re-establishing the business and an award representing six months' profit (£12,000) was appropriate.
2. The claim for damages for breach of trust and the claim for loss of profit were not cumulative, but alternative and inconsistent remedies. R would be treated as having elected to receive the larger award, being damages for loss of profits.
3. The loss caused by misappropriation of the store room was the inability to use the first-floor function room for the purposes of the restaurant. R could not establish any further loss and therefore the award for mesne profits had to represent the amount of the benefit that the appellant obtained. On that basis, mesne profits should not have been awarded as well as damages for loss of profits.
4. The judge had determined that R should be awarded an amount equal to the diminution in value of his property due to the loss of the store room (including the fire escape), plus mesne profits for the period he had been unable to use his property. R's interest in the store room ended when he was paid its value and that terminated the continuing tort. R could not seek damages for trespass for any subsequent loss of profits and the £55,000 awarded for diminution in capital value of his property also covered the loss of the fire escape.
5. The misappropriation of the store room continued to affect R's life, but the judge's award of £60,000 in exemplary damages was reduced to £20,000.

CONSTRUCTION

19 CLG Statistical Publication

Code for Sustainable Homes and Energy Performance of Buildings: Cumulative and Quarterly Data up to end of June 2011

These latest statistics on the Code for Sustainable Homes and Average Energy Efficiency (SAP ratings) were released on 26.08.11 and show the number of dwellings that have been certified to the standards set out in the Code Technical Guide. The average energy efficiency rating of new homes was 80.2 in England and 79.7 in Wales for the quarter April – June 2011. This is a decrease of 0.6 points for both England and Wales on the same quarter in 2010. The majority of certificates issued since April 2007, both at design and post construction stage, have been awarded at three star rating.

<http://www.communities.gov.uk/publications/corporate/statistics/codesustainablesapq22011>

20 CLG Guidance

Cost of building to the Code for Sustainable Homes – updated cost review

The Code for Sustainable Homes is the national standard for assessing the sustainability of new housing in England, Wales and Northern Ireland. The aim of this document is to provide guidance as to the costs of building housing to Code standards, updating previous Code cost reports and based on a much larger availability of market-tested industry data.

<http://www.communities.gov.uk/publications/planningandbuilding/codeupdatedcostreview>

ENVIRONMENT

21 Defra Publication

Biodiversity 2020: A strategy for England's wildlife and ecosystem services

In October 2010 over 190 countries signed a global agreement in Nagoya, Japan, to take urgent and effective action to halt declines in biodiversity across the world. It established a new global vision for biodiversity, including a set of strategic goals and targets. In June 2011 the Government published The Natural Choice, the first Natural Environment White Paper for 20 years, as a response to the global commitments made in Nagoya. This outlined the Government's vision for the natural environment, shifting the emphasis from piecemeal conservation action towards a more integrated landscape-scale approach. This new biodiversity strategy for England builds on the Natural Environment White Paper and provides a comprehensive picture of how the UK intends to implement its international and EU commitments. The mission for this Strategy is: "to halt overall biodiversity loss, support healthy well-functioning ecosystems and establish coherent ecological networks, with more and better places for nature for the benefit of wildlife and people."

<http://www.defra.gov.uk/publications/files/pb13583-biodiversity-strategy-2020-110817.pdf>

GENERAL

22 Letter from the Sec of State for Communities and Local Government to local authorities and fire authorities

Support package for local firms and families to rebuild their communities

This letter, dated 16.08.11 and addressed to Leaders of local authorities and fire authorities affected by the recent riots, informs them of their eligibility under the terms of the recovery scheme and contains details of the package of support available. This includes:

- a £10m recovery fund to help with immediate costs of clearing and repairing areas and making them safe again;
- a £20m High Street Support Scheme to be made available immediately for the streets and areas where businesses have been affected by the rioting. This fund is intended to finance measures to help businesses start trading again and to meet short term costs; and
- re-housing funding to meet the immediate costs of emergency accommodation for families who have been made homeless by the disturbances.

<http://www.communities.gov.uk/publications/localgovernment/supportpackageletter>

23 RICS Publication

RICS Residential Lettings Survey – July 2011

This survey, which relates to the three months to July, demonstrates that:

- rents have continued to rise and further increases are expected
- rises in rents are being driven by strong demand and only moderate rises in supply
- the strongest growth in rents has been seen in London and the South East
- would-be first time buyers are having to move into the rental market as they are finding it difficult to obtain mortgage finance
- rental growth was slowest in Scotland

http://www.rics.org/site/download_feed.aspx?fileID=10304&fileExtension=PDF

24 College of Estate Management Report

Waterproof – flood risk and due diligence for commercial property investment in the UK

Using case studies from across the UK this report examines how flood risk is investigated and managed by major institutions when they invest in commercial property. It highlights the various aspects of flooding risk to major cities and the levels of risk which exist to the value of investments held in commercial property across the UK. It emphasises the importance of due diligence processes enabling the proper investigation of flood risk, so that investors can make better informed investment decisions and are also aware of the measures that need to be taken in order to mitigate or manage the risk of flooding to property holdings.

<http://www.cem.ac.uk/waterproof/>



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25 Greater London Authority publication

Mayoral Community Infrastructure Levy

The Mayor is intending to introduce a Londonwide Community Infrastructure Levy (CIL) on development and his proposals have been submitted for public examination by an independent examiner. The levy is intended to raise £300m for Crossrail which it is anticipated will bring significant benefits to London in terms of improving the transport system, job creation and supporting new development. The Mayor intends the new levy to be payable on most new developments from April 2012 with the money raised going towards London's share of the Crossrail funding package agreed with the Government. It is proposed to charge the levy at the following rates:

- Zone 1 boroughs – £50 per sq m (Camden, City of London, City of Westminster, Hammersmith & Fulham, Islington, Kensington & Chelsea, Richmond-upon-Thames, Wandsworth)
- Zone 2 boroughs – £35 per sq m (Barnet, Brent, Bromley, Ealing, Greenwich, Hackney, Haringey, Harrow, Hillingdon, Hounslow, Kingston upon Thames, Lambeth, Lewisham, Merton, Redbridge, Southwark, Tower Hamlets)
- Zone 3 boroughs – £20 per sq m (Barking and Dagenham, Bexley, Croydon, Enfield, Havering, Newham, Sutton, Waltham Forest)

The amount to be charged for each development will be calculated in accordance with Reg 40 of the Community Infrastructure Levy Regulations (as amended), which includes at paras 5 and 6 the formulae for calculating the amount of CIL. The rates shown above are applied to the gross internal area of the chargeable development.

The draft charging schedule and consultation document were open for consultation from 08.06.11 to 08.07.11. Persons making representations in response to this document have the right to be heard by the examiner.

<http://www.london.gov.uk/publication/mayoral-community-infrastructure-levy>

26 RICS Publication

RICS UK Economy & Property Market Chart Book – September 2011

This document analyses the state of the UK's financial markets and economy, its construction sector, the housing market and the commercial property sector and considers what the RICS and its members can do to help the Government to deliver a vibrant and sustainable property market.

http://www.rics.org/site/download_feed.aspx?fileID=10318&fileExtension=PDF

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Ian Heritage

Abbreviations

The following abbreviations are used in evebrief:

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| BLD | Lexis Nexis Butterworths (internal abbreviation) |
| EG | Estates Gazette |
| EGLR | Estates Gazette Law Reports |
| EWCA | England & Wales Court of Appeal |
| EWHC | England & Wales High Court |
| P&CR | Property, Planning and Compensation Reports |
| PLSCS | Property Law Service Case Summaries |

The star system

Cases are marked with one, two or three stars as follows:

- *** Essential reading on the point of law or valuation with which the case is concerned, because it adds to, or clarifies or changes, the law.
- ** Noteworthy case which does not significantly alter the law or which relates to a relatively obscure point.
- * Interesting but non-essential reading.

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One of our key roles at Gerald Eve Research is to communicate with our clients and others; to inform them, for example, on our latest thinking on topical issues such as legal matters and the implications for broader property market trends.

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