EVEBRIEF

Legal & Parliamentary

Volume 33(05) 18 April 2011

WITNESS PROTECTION REMOVED

Tony Chase
Editor

The decision of the Supreme Court in Jones v Kaney (item 17) represents a major change to the existing law on immunity of expert witnesses from actions for negligence. Until now, the position has been as set out in the decision in Stanton v Callaghan – that an expert witness who gives evidence at a trial or hearing is immune from an action for negligence in respect of anything he says in court and in respect of the content of his expert's report. This immunity was held to extend, in the public interest, to discussions between experts before the trial commences and to concessions made or departures from advice previously given.

The Supreme Court has now decided that there is no justification for continuing to hold expert witnesses immune from action; an expert acting in civil litigation owes a duty to his client to act with care and skill, notwithstanding that the paramount duty is to the court or other body to which the evidence is being given. There was no evidence that removal of immunity would make expert witnesses reluctant to act in that capacity or to give evidence freely and frankly, for fear that they might be sued if they gave evidence that was contrary to their clients' interests. They are professional people who could be expected to comply with the rules and ethics of their profession, and an expert giving an independent and unbiased opinion that is within the range of reasonable opinions would have discharged his duty to the court and to the client.

At item 02 we report on another landmark decision, on changes to the treatment of the demolition of certain buildings. As a consequence of the Court of Appeal's decision developers will now have to submit applications for determination, for prior approval for an expanded range of demolition projects, in the same way as they do for the demolition of dwelling houses. This will be in addition to any other consent required for demolition (e.g. for heritage properties). Also local authorities will have to consider whether the demolition project is likely to have significant environmental effects and therefore requires a screening opinion to be issued.

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PLANNING

01 Supreme Court

Lawful use certificate

** WELWYN HATFIELD BOROUGH COUNCIL V SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT (2011) PLSCS 97 – Decision given 06.04.11

Facts: In December 2001, WHBC, the local planning authority, granted X planning permission to erect a hay barn for agricultural storage. In fact, although the exterior of the building which X constructed looked like a barn, it was fitted out as a three-bedroom house which he moved into in August 2002. Four years later in August 2006 X applied for a certificate of lawful use on the ground that the time limit for taking enforcement action against a change of use to a single dwellinghouse had expired. At first instance WHBC refused to grant the certificate.

Point of dispute: Whether WHBC's appeal would be allowed against the Court of Appeal's decision that X was entitled to a lawful use certificate. The Court of Appeal found that the use of the building as a dwelling represented a change of use, within s171B(2) of the Town and Country Planning Act 1990, from either: (i) the agricultural storage use permitted under the relevant planning permission, even though there had been no prior agricultural storage use; or (ii) a period of "no use" between the completion of the building and the date on which X had taken up residence.
It considered that the four-year time limit under s171(B)(1) applied to enforcement against the construction of the building, which had been built in breach of planning control because it had the features of a dwelling and not a hay barn. The Sec of State disagreed with the Court of Appeal's interpretation of s171(B)(2) and argued that even if X's building did fall within it, he should be barred from relying on the provision as a matter of public policy as he had deliberately deceived WHBC when he applied for planning permission.

Held: The appeal was allowed. The planning permission to erect a hay barn had never been implemented since X's building had been designed and built as a dwellinghouse. This meant that it did not have a permitted use and there had been no "change of use" from a permitted use to use as a dwellinghouse, so as to fall within s171B(2). Nor was it correct to analyse the situation as involving a change of use from "no use" to use as a dwellinghouse. It was artificial to say that a building had no use, or that its use was other than that of a dwellinghouse, when it was built for residential purposes and the owner would move in shortly after completion. The four year enforcement period in s171B(1) would apply to the unauthorised building operations while the ten-year period in s171B(3) would apply to the residential use of the eventual building. Protection from enforcement in respect of a building and its use were potentially different matters, and in respect of use s171B(2) applied a four-year period only where a change of use to a dwellinghouse was involved.

02 Court of Appeal

Demolition

*** R (ON THE APPLICATION OF SAVE BRITAIN'S HERITAGE) V SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT (2011) PLSCS 87 – Decision given 25.03.11

Facts: A developer gave notice to a local authority of its intention to demolish a brewery on the grounds that it was a redundant building and in such a condition that restoration was financially unviable. SBH, the appellant, obtained an injunction preventing the demolition from going ahead contending that paras 2(1)(a)-(d) of the Town and Country Planning (Demolition – Description of Buildings) Direction 1995 ("the Demolition Direction"), under which the demolition of certain classes of building was not to be regarded as "development" requiring planning permission, was unlawful as it was contrary to the Environmental Impact Assessment Directive 85/337/EEC ("the EIA Directive"). SCH argued that the EIA Directive required an environmental impact assessment to be carried out before demolition of a building (thus meaning that permitted development rights are withdrawn) since article 1(2) defines "project" as the execution of construction works or of other installations or schemes.

Point of dispute: Whether demolition that did not form part of a wider development constituted a "project" within article 1(2) of the directive. In the High Court it was held that demolition, other than that forming part of what would otherwise be a project within the meaning of the directive, did not come within the scope of that directive. SBH argued that demolition works could constitute a project for the purposes of the EIA Directive and by excluding them from its scope the Demolition Direction was unlawful.

Held: SBH's appeal against the High Court ruling was allowed. The demolition of buildings was capable of constituting a project within article 1(2) of the EIA Directive which had to be read as a whole. Paras 2(1)(a)-(d) of the 1995 Direction were unlawful and should not be given effect. It was a particularly unsatisfactory feature of the Demolition Direction that demolitions which were likely to have most effect on the country's heritage i.e. demolitions of listed buildings, ancient monuments and buildings in a conservation area, were effectively excluded from the EIA Directive.

Editor's note: Steve Quartermain, Chief Planner at the DCLG, has issued a guidance letter to local authorities as a result of the judgement. He confirms that the judgement means that the demolition of a listed building, a building in a conservation area, a building which is a scheduled monument, or a building that is not a dwellinghouse or adjoining a dwellinghouse is now 'development'. This brings the demolition of such structures into line with the treatment of residential buildings generally. Permitted development rights for such development apply under part 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, but an application to the local planning authority is needed to check whether prior approval of the method of demolition is required (in line with the conditions to part 31 of the GPDO). In addition, the Court of Appeal has followed the decision of the CJEU in the case, Commission v Ireland (C-50/09), which concluded that demolition works come within the scope of the EIA Directive. The effect is that where demolition works are likely to have significant effects on the environment the local planning authority must issue a screening opinion on whether an environmental impact assessment is required.

03 High Court

Appeal against grant of planning permission for wind farm

* LEE V SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT (2011) All ER (D) 45 (Apr) – Decision given 04.03.11

Facts: L, a local resident, objected to the third defendant company's application for planning permission for a wind farm. On appeal, the Sec of State granted permission. An appeal against that decision was allowed by the inspector who granted planning permission subject to conditions giving consideration to Local Planning Policy PU6.

Point of dispute: Whether L's appeal against the inspector's decision would be allowed. L argued that the inspector had (i) failed to deal with the arguments concerning uncertainty over the noise propagation model; (ii) failed to take into account other amenity effects; (iii) failed to have regard to a material consideration, that other identified impacts could have been reduced by changes to the design of the wind farm; and (iv) concluded that the proposed development would help to protect some particular heritage assets without any evidence on which to base that conclusion.

Held: The appeal was dismissed.

i The inspector only had to deal with the main controversial issues. Noise was the main one in this case and he had been satisfied that the model he had considered was the appropriate one.

ii On the evidence the inspector had taken the issue of amenity into account and had made reasoned findings in relation to it.

iii It was established law that there was no legal principle that planning permission should be refused if a different scheme could have achieved similar benefits with less harm. The inspector had had regard to relevant material considerations, as he was required to do, and had expressed the reasons for his conclusion sufficiently in his decision letter. The inspector had contrasted the local impact with the public benefit of wider application which outweighed the harm and associated conflict with the development plan. In carrying out that exercise he had taken into account policy advice on minimisation and the evidence on location, scale, design, heritage and noise impact.

iv In the circumstances the inspector had been entitled to rely on the general position.

04 CLG Letter to Chief Planning Officers

Letter to Chief Planning Officers: Marine planning and licensing systems

This letter draws attention to the commencement of the new statutory marine planning and licensing systems this spring. Marine Plans will extend up to the level of mean high water spring tides, which in some areas will mean that they extend into estuaries. An annex to the letter contains information on the next steps in implementing the new systems.

http://www.communities.gov.uk/publications/planningandbuilding/lettermarineplanning

05 Planning Policy Statement

Planning Policy Statement 10: Planning for sustainable waste management

This PPS sets out the Government's policy which must be taken into account by waste planning authorities and forms part of the national waste management plan for the UK. It replaces Planning Policy Guidance 10: Planning and Waste Management (PPG10) published in 1999 and an earlier edition of PPS 10 published in July 2005.

http://www.communities.gov.uk/publications/planningandbuilding/planningpolicystatement10

06 CLG Letter to Chief Planning Officers

Letter to Chief Planning Officers: Update to Planning Policy Statement 10

This letter informs local authorities of the update to PPS10 Planning for Sustainable Waste Management to ensure that it incorporates the new waste hierarchy set out in the revised Waste Framework Directive (2008/98/EC). The revised Directive seeks to increase the use of waste as a resource and to place greater emphasis on the prevention and recycling of waste, while protecting human health and the environment. The changes to PPS10 are contained paragraph 1 and Annex C. Local authorities must have regard to the hierarchy in the preparation of their waste plans and it is something that is capable of being a material consideration in determining individual planning applications.

http://www.communities.gov.uk/publications/planningandbuilding/letterupdatepps10

07 CLG Letter to Chief Planning Officers

Letter to Chief Planning Officers: Preparation and Monitoring of Local Plans

This letter informs local authorities of a package of measures, the introduction of which will reduce red tape and streamline policy on local plans. Some guidance on local plan monitoring has been withdrawn and the Government is to step back from monitoring the preparation and content of local plans, which was previously carried out by the Government Office Network.

http://www.communities.gov.uk/publications/planningandbuilding/letterlocalplans

08 CLG Statistics

Planning Applications: October to December 2010 (England)

These national statistics, which were released on 31.3.11, contain the following noteworthy information:

- Between October and December 2010 local planning authorities received 110,000 applications, 1% less than in the December 2009 quarter;
- 110,000 applications were decided during the same period, 5% more than in the December 2009 quarter;
- 88,900 applications were granted, also 5% up on the December quarter;
- 13,400 applications for residential developments were decided, 6% more than in the December quarter;
- 1,400 major residential developments applications were decided, 7% more than a year earlier;
- 66% of major applications were decided within 13 weeks; and
- At county level authorities decided 310 applications, 18% fewer than during the same quarter a year ago.

http://www.communities.gov.uk/publications/corporate/statistics/planningapplicationsq42010

09 CLG Letter to Chief Planning Officers

Letter to Chief Planning Officers: Demolition

This draws local authorities' attention to the Court of Appeal judgement in the case of SAVE Britain's Heritage v Secretary of State for Communities and Local Government, reported at item 02, since it has important and immediate consequences for planning control over demolition.

http://www.communities.gov.uk/publications/planningandbuilding/letterdemolition

10 CLG Letter to Chief Planning Officers

Letter to Chief Planning Officers: Planning for Growth

This letter draws local planning authorities' (lpas) attention to the Government's Growth Review which contains ambitious proposals for further planning reform to ensure that planning supports the sustainable development that is needed as the country emerges from recession. These objectives must inform decisions that lpas are taking now and a Ministerial Statement, issued on 23.3.11 to emphasise this point, is capable of being regarded as a material planning consideration. Decisions about the use of previously developed land are now to become a local matter and the national target for the amount of housing that is to be built on brownfield land is to be withdrawn.

http://www.communities.gov.uk/publications/planningandbuilding/letterplanninggrowth

11 CLG Letter to Chief Planning Officers

A Guide to Determinations and Appeals (revised April 2011)

This guide relates to the new version of this guide, which has been updated this month, and replaces all previous versions. The guide is now clearer and introduces forms for determination applications and appeals. General guidance is given on the procedures contained in the Building Act 1984 for:

- applying to the Secretary of State for Communities and Local Government for a determination in respect of compliance of plans of proposed building work with the Building Regulations; or
- submitting an appeal to the Secretary of State against refusal by a local authority to relax or dispense with a requirement of the Building Regulations.

http://www.communities.gov.uk/publications/planningandbuilding/determinationsandappeals

RATING

12 CLG Business rates information letter

Business Rates information letter (2/2011): Information from Budget announcement 2011

This letter covers the following:

- The Chancellor's announcement in the Budget that the current temporary increase in Small Business Rate Relief, which started on 01.10.10 and was due to end on 30.09.11, will now continue for a further year until 30.09.12;
- The announcement that the Government is to introduce 21 new Enterprise Zones, to be established across Local Enterprise Partnership areas in England;
- The Terms of Reference for the Local Government Resource Review; and
- The interest rate for 2011-12 on refunds of overpaid rates arising from alterations to the rating list – this is 0%.

http://www.communities.gov.uk/publications/localgovernment/bril22011

LEASEHOLD REFORM

13 Upper Tribunal: Lands Chamber

Collective enfranchisement – whether nominee purchaser entitled to acquire part only of leasehold interest and exclude the part covered by planning permission for penthouse flat

** HEMPHURST LTD V DURRELS HOUSE LTD
(2011) PLSCS 76 – Decision given 05.01.11

Facts: A nominee purchaser applied to acquire the freehold of a block of flats from the freeholder under the collective enfranchisement provisions of the Leasehold Reform, Housing and Urban Development Act 1993. The block had a flat roof on which there were structures housing ventilation shafts and machinery. The ground floor lessee also held a lease of the surface of the roof and the airspace above and had obtained planning permission to construct a large penthouse flat.

Point of dispute: Whether the nominee purchaser could, when exercising its right to acquire leasehold interests under s2 of the 1993 Act, exclude those parts of the roof that were required for the implementation of the planning permission and acquire only those parts which were necessary for the proper maintenance of the building.

Held: The nominee purchaser's appeal was allowed against the finding of the Leasehold Valuation Tribunal (LVT) that it was not possible, under s2, to acquire parts of premises demised by a single leasehold interest. Where s2 entitled a nominee to acquire leasehold interests that related to the freehold premises it was acquiring, it could acquire only those parts of the leasehold interests that it required. The language of the 1993 Act was not conclusive, but an interpretation that allowed the nominee purchaser to acquire as much as it needed of the leasehold interest but no more should be adopted, as that was more consistent with the legislative purpose of conferring on tenants those advantages which parliament had intended them to enjoy.

HOUSING

14 Homes & Communities Agency (HCA) Bulletin

Monthly Housing Market Bulletin – 31 March 2011

This bulletin provides HCA staff with the latest information on housing market trends, the economy and the housebuilding industry. The following are the most noteworthy items:

- House prices continued to fall slightly in February, with Halifax recording a 0.9% fall over the month;
- Halifax expects this trend to continue throughout 2011 and it forecasts a 2% fall in prices over the year;
- The number of potential buyers rose by 14.7% during February;
- There were approximately the same number of transactions as a year earlier, reflecting the ongoing low levels of mortgage finance, with January seeing a 29% fall in loans for house purchases compared to the previous month;
- The Budget included a £250 million scheme to help get 10,000 first time buyers onto the property ladder in new-build housing;
- Economic growth fell by 0.6% in Q4 2010;
- Both unemployment and employment have risen as more people continue in employment past the age of 65; and
- Housebuilders report that the market remains weak but is starting to stabilise.

http://www.homesandcommunities.co.uk/public/documents/housing-bulletin-march.pdf

TORT

15 High Court

Negligent building works – whether claim statute barred

* EAGLE V REDLIME LTD
(2011) PLSCS 98 – Decision given 04.04.11

Facts: R, the defendant company, constructed some dog kennels for E, the claimant, in 2000. Following the appearance of cracks in the structure and problems with the drainage channels, E brought an action for damages against R, issuing its claim on 29.10.09. R alleged that E had had the necessary knowledge to bring the claim more than three years before the proceedings commenced, whereas E argued that the first date on which he had the relevant knowledge to bring the claim was 16.11.06, the date on which he received a report from a firm of civil and structural engineers whom he instructed to inspect the building.

Point of dispute: Whether E's claim was statute barred. E argued that the relevant damage, for the purposes of s14A of the Limitation Act 1980, was the failure of the concrete base to the block, caused by R's faulty design and that the extent of this damage could only be ascertained when E received the expert's report on 16.11.06.

Held: Deciding the preliminary issue in favour of R, it was ruled that E's claim in tort was statute-barred. E knew about the damage for which he was claiming damages before 29.10.06, although it was not until later that he became aware of the full extent of it. The damage of which E became aware had to be sufficiently serious to satisfy the requirements of s14A(7). Under s14A(9) knowledge as to whether any acts or omissions did or did not, as a matter of law, involve negligence was irrelevant – the claimant just had to have known enough for it to be reasonable to undertake further investigation and that there was a real possibility that the damage had been caused by an act or omission on the part of the defendant. In this case E knew enough by 29.10.06 to believe that the damage to the building was attributable to an act or omission on R's part.

COMPULSORY PURCHASE

16 High Court

Lawfulness of compulsory purchase order – Acquisition of Land Act 1981 ss23,24

* R (ON THE APPLICATION OF BOLAND) V WELSH MINISTERS (2011) All ER (D) 281 (Mar)

Facts: The local authority authorised a number of compulsory purchase orders (CPOs) for the acquisition of land for the rebuilding of a primary school, associated drainage works and highway improvements. B, the claimant, considered that a site which he had offered to the local authority would be more suitable. Confirmation of all the CPOs was given by the defendant Welsh Ministers in August 2010.

Point of dispute: Whether B's application for judicial review of the decision to make the CPOs would be allowed. B brought the proceedings pursuant to s23(1) of the Acquisition of Land Act 1981. B's arguments were that: (i) the recommendations of the planning inspector regarding the CPOs had been unreasonable having regard to the road and construction site safety implications and the potential availability of a more suitable and safer location which offered potential for expansion of the school; and (ii) the notice given of the decision to confirm the CPOs pursuant to s15 of the 1981 Act had been ineffective because it related to more than one CPO.

Held: B's application was dismissed.

i It was settled law that a public body must not act perversely, which meant that it should not act in a way which the court considered that no reasonable person in the position of a public body, which had properly directed itself on the relevant, could have done and reached the conclusion that it had reached. On the evidence, B's submission that the defendant Ministers had acted unreasonably was wholly without merit. The planning inspector had given detailed reasons as to why the site that had been chosen was preferred over B's alternative. The proposed road improvements would provide the necessary visibility.

ii A challenge made under s23 of the 1981 Act had to be to the validity of a CPO. There was no requirement that there should be one notice for a single CPO or that there was a prohibition on having a single notice for several CPOs.

GENERAL

17 Supreme Court

Immunity for expert witnesses

***JONES V KANEY
(2011) PLSCS 92 – Decision given 30.03.11

Facts: J, the appellant, sought damages for psychiatric problems following a road traffic accident. His solicitor instructed the respondent, K, a clinical psychologist, to act as J's expert in the case on the issue of post-traumatic stress disorder. As required by a court order, K consulted the expert on the other side. Although it did not entirely reflect her views, she signed a joint statement but certain matters in it were damaging to J's case and the case settled for a significantly lower sum than it would have done had K not signed the statement. In proceedings brought by J against K seeking damages for negligence K sought to rely on the Court of Appeal decision in Stanton v Callaghan (1998) which established immunity for witnesses and was binding on the High Court and the Court of Appeal. J's claim was struck out, but he was given leave to appeal to the Supreme Court on the issue of whether that decision remained good law as it involved a point of law of general public importance.

Point of dispute: Whether an expert witness enjoys immunity from prosecution in respect of the act of preparing a joint witness statement. The wider issue of whether it was still in the public interest to exempt expert witnesses from liability for negligence in the course of performing their duties as experts was also considered.

Held: (By a majority of 5 to 2) the appeal was allowed. Any exception to the general rule that no wrong should be without a remedy had to be justified as being in the public interest – the onus in this case was on K to justify the immunity behind which she sought to shelter. There was no public policy justification for the proposition that expert witnesses should enjoy the same immunity as that enjoyed by witnesses of fact. An expert witness provides his services under a paid contract while a witness of fact may not have wanted to give evidence and owes no duty to the claimant. Since barristers no longer enjoy immunity in respect of claims for negligence against them there was no policy justification for expert witnesses to enjoy such immunity. No evidence had been given to support the proposition that a removal of immunity would make expert witnesses reluctant to act, and it was recognised that an expert's duty to his client is subject to the overriding duty of assisting the court. No justification had been shown for continuing to hold expert witnesses immune from prosecution in respect of the evidence that they gave in court or for the views that they expressed in anticipation of court proceedings. The immunity they had enjoyed with regard to their participation in legal proceedings should be abolished, apart from the absolute privilege that they enjoyed, along with barristers, in respect of claims in defamation.

18 English Heritage Publication

Understanding Place: Conservation Area Designation, Appraisal and Management

Recognising that change in historic places will inevitably occur over time, this guidance sets out ways to manage change in a way that conserves and enhances historic areas through conservation area designation, appraisal and management. It is based on the two consultations carried out by English Heritage in 2005, Guidance on conservation area appraisals and Guidance on the management of conservation areas and forms part of a series of guides on historic characterisation that have been published since last year.

http://www.helm.org.uk/upload/pdf/Conservation-Area-Designation.pdf?1301312817

19 Policy Exchange Research Note

More Homes: Fewer Empty Buildings

This paper argues the case for reforming the Use Classes Order to make it easier to move buildings and land from Classes A (retail) and B (employment) to C3 (dwellinghouses) in order to address the problem of acute housing shortage in Britain.

http://www.policyexchange.org.uk/images/publications/pdfs/More_Homes.pdf

20 London Assembly – Planning and Housing Committee Report

Crowded houses: Overcrowding in London's social rented housing

This report addresses the problem of overcrowded housing in London and the particularly bad situation in social rented housing. It considers the changes that need to be made to the housing system, and in particular the proposition that "building more large homes would more effectively resolve the problem of overcrowding in London's social housing". It argues that building more large homes (4-6 bedrooms) would help to address the historic shortfall of large homes in London by giving overcrowded families bigger places to live in, and, secondly, the creation of each larger home would help many overcrowded families down the line due to the chain effect – it has been shown that one new six bedroom home can help take more than 36 people out of overcrowding. The current trend of constructing one and two bedroom homes is not assisting the situation as they do not create a chain and are too small for most overcrowded households. Other factors which need to be considered to address the overcrowding problem are also examined – funding, housing stock management and housing priorities.

http://www.london.gov.uk/sites/default/files/PDF%20Final%20draft%20overcrowding%20report%2017%20March%202011.pdf

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Abbreviations
The following abbreviations are used in evebrief:

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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EVEBRIEF

Legal & Parliamentary

Volume 33(05) 18 April 2011

SCOTLAND

PLANNING

01 Historic Scotland Consultation

Historic Environment (Amendment) (Scotland) Act 2011 –
Consultation on Draft Regulations
Deadline for comments: 14.06.11

This Act, which received Royal Assent on 23.2.11 and was reported at item 02 of the last edition of Evebrief, is an amending piece of legislation which will enhance the ability of the Scottish Ministers and planning authorities to manage Scotland's historic environment in a sustainable way for the enjoyment and benefit of future generations. The Act confers powers on Scottish Ministers to make orders and regulations in relation to a range of matters dealt with in the Act, and this consultation seeks comments on the following four draft statutory instruments:

- The Ancient Monuments and Archaeological Areas (Compensation) (Scotland) Regulations 2011;
- The Ancient Monuments and Archaeological Areas (Applications for Scheduled Monument Consent) (Scotland) Regulations 2011;
- The Town and Country Planning (Listed Buildings) (Amount of Fixed Penalty) (Scotland) Regulations 2011; and
- The Town and Country Planning (Listed Buildings) (Prescribed Forms of Notices) (Scotland) Regulations 2011.

GERALDEVE

02 Scottish Government Consultation

Consultation on Non-Domestic Elements of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992
Deadline for Responses: 01.07.11

This consultation is concerned with potential revisions to the general permitted Development Order. Its aim is to:

- establish a clear purpose for permitted development rights and to make the provisions of the GPDO more proportionate, streamlined, clearer and easier to use;
- reduce bureaucracy and the need for planning applications where scrutiny adds little or no value individually or cumulatively;
- update and assess the continuing relevance of the various classes; and
- to align the GPDO with the planning reform agenda and particularly with current legislation and planning policy.

http://www.scotland.gov.uk/Publications/2011/03/21151708/0

03 Scottish Government Appraisal

Habitats Regulations Appraisal of Draft Plan for Offshore Wind Energy in Scottish Territorial Waters: Appropriate Assessment

A Draft Plan for Offshore Wind Energy (OWE) in Scottish Territorial Waters was published by Marine Scotland in May 2010. This Plan considers the potential of Scottish waters to accommodate OWE developments and defines potential areas as short, medium and long-term options for OWE generation. A Habitats Regulations Appraisal of the draft OWE Plan is required as the Strategic Environmental Assessment identified the potential for likely significant effect on sites which are designated for their nature conservation interest at a European Level.

http://www.scotland.gov.uk/Resource/Doc/347165/0115562.pdf

WALES

PLANNING

04 Welsh Assembly Consultation

Review of Directions Requiring Planning Applications to be referred to the Welsh Ministers
Deadline for Comments: 13.06.11

This consultation concerns proposed changes to the current system of consultations. Under the current system local planning authorities must refer some planning applications to the Welsh Ministers before they make a decision, if they intend to approve them. The Ministers may then decide to intervene by a call in or other direction, or allow the local planning authority to decide on the application. It is proposed to make some changes to the types of planning application that are required to be referred to the Welsh Ministers.

http://wales.gov.uk/consultations/planning/reviewofdirections/;jsessionid=jypGNQZVYMtpQxx5BpL2WvMTqF7SvCpkrGynjVs5vhnJzx36lbzy!1452112521?lang=en

05 Welsh Assembly Consultation

Draft Technical Advice Note (TAN) 20: Planning and the Welsh language
Deadline for Comments: 13.06.11

This Draft TAN provides guidance on how Welsh language issues should be considered by local planning authorities. These issues need to be taken into account when Local Development Plans (LDPs) are prepared and decisions on planning applications are made.

http://wales.gov.uk/consultations/planning/tan20consultation/;jsessionid=jypGNQZVYMtpQxx5BpL2WvMTqF7SvCpkrGynjVs5vhnJzx36lbzy!1452112521?lang=en

NORTHERN IRELAND

PLANNING

06 NI Planning Service – Consultation

Draft PPS 2: Natural Heritage (Revised)
Deadline for Comments: 08.07.11

This Planning Policy Statement sets out planning policies for the protection and conservation of Northern Ireland's natural heritage. When it is finalised this PPS will replace PPS 2 *"Planning and Nature Conservation"* and the following policies of *"A Planning Strategy for Rural Northern Ireland"* insofar as they refer to the protection of Northern Ireland's natural heritage:

- Policy SP 16 Environmental Protection; and
- Policy DES 4 Areas of Outstanding Natural Beauty.

The draft policy is accompanied by Draft Supplementary Planning Guidance which provides background information and guidance on relevant natural heritage legislation.

http://www.planningni.gov.uk/index/policy/policy_publications/planning_statements/draft_pps_2_revised___natural_heritage.htm

07 Department of the Environment – Revision to Planning Policy Statement

Planning Policy Statement 6 Planning, Archaeology and the Built Heritage – Revised Annex C: Criteria for Listing

PPS 6, which was published in March 1999, sets out the Department's planning policies for the protection and conservation of archaeological remains and features of the built heritage embodying the Government's commitment to sustainable development and environmental stewardship. Annex C of PPS 6 contains the criteria under which buildings of special architectural and/or historic interest are listed. Following commitments given to the Northern Ireland Assembly in February 2008, the Northern Ireland Environment Agency published a revised Annex C for public consultation in April 2010 based on established practice from across Great Britain and the Republic of Ireland. Taking into account the comments received during that consultation this document contains revised criteria for use by the Department in listing buildings of special architectural and/or historic interest under Article 42 of the Planning (Northern Ireland) Order 1991. This document replaces Annex 6 of PPS 6.

http://www.planningni.gov.uk/index/news/news_policy/publication_of_revised_annex_c_to_pps_6.htm

GENERAL

08 Department of the Environment Consultation

Building on Tradition – A Sustainable Design Guide for the Northern Ireland Countryside.
Supplementary planning guidance to PPS 21
Deadline for Comments: 08.07.11

This guide has been prepared to assist all those involved with sustainable development in the Northern Ireland countryside to understand the requirements of PPS 21 "Sustainable Development in the Countryside". In particular, it seeks to address the current trends in relation to poor standards of design. The guide contains information on the following themes:

- Our place, what makes it special;
- Reuse – reusing vernacular and other buildings;
- Visual integration;
- Replacement – how to design top quality replacement houses;
- New Build – how should new buildings be designed to fit the landscape; and
- Building on Tradition – how to improve environmental standards of development and practical details of information that will be required at each stage of the planning process.

http://www.planningni.gov.uk/index/policy/supplementary_guidance/guides/draft_design_guidance_to_accompany_pps_21__-_building_on_tradition.htm