

EVEBRIEF

Legal & Parliamentary

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Gemma Goakes
Editor

BUILDING CONTROLS, AND PROTEST CAMPERS SENT PACKING

Our report at item 18 of this edition highlights one of the risks to building owners of leaving a building to fall into such a state of disrepair that it potentially causes a danger to the public – leaving it potentially open to the local authority to come in and carry out the necessary work and to recover the full cost from the owner.

At item 36 we report the High Court judgement in the highly publicised case of the removal of the protest camp in front of St Paul's Cathedral. The decision is of interest in that it sets out the limits to the basic 'human right' of protesters to protest and the balance to be struck between their rights and those of the rest of the public who might rather like to use the highway as a highway. In essence the court held that the basic right to protest on the highway does not extend to causing a nuisance and impeding the public's right to pass along it, and protesters were not entitled to occupy and control it as they had done in this case.

At items 19 to 28 we summarise the Government's recently published range of proposals on changes it wishes to make to reduce the burden that falls on business as a result of regulation within the construction industry.

As expected, the proposals include tighter standards for carbon emission for new homes and non-domestic buildings, taking the next step towards zero-carbon standards, plus some tighter performance standards for works to existing buildings, as well as simplification and rationalisation of other areas of the regulations such as electrical safety in dwellings and access.

The papers also contain proposals to introduce, on a phased basis, requirements for additional energy efficiency improvements to be carried out when other specified works (eg extensions) are planned, with Green Deal finance available as an option to meet up front costs. Finally there are a number of further changes proposed around local fire safety provisions, improvements to the building control system and also the proposed introduction of 'Appointed Persons' to act as liaison between building control and the contractor.

The consultations close 27 April 2012, and on the earlier date of 27 March for the proposals relating to Part L "Consequential improvements for existing buildings".

A handwritten signature in black ink that reads "Gemma Goakes".



GERALDIVE

LOCALISM

01 CLG Consultation

Proposed Policy Statement for Part 2 of the Localism Act 2011

Deadline for Responses: 22.04.12

This consultation concerns a proposed policy statement for Part 2 of the Localism Act 2011.

The Localism Act provides for a shift in power away from central Government and towards local people. The public authorities are also being given more power and freedom to conduct their business and deliver services to the public. This means, in turn, that these bodies must accept responsibility for the consequences of their actions or omissions. The UK, in common with all countries in the European Union, has to comply with European legal obligations and if it fails to do so it may be brought before the European Court of Justice in infraction proceedings. In the event of the UK being found to be in breach of EU law, it must take steps to remedy that breach, and if it fails to do so, it may be brought back before the Court and a financial sanction imposed. The European Court of Justice can order either a lump sum and/or ongoing penalty payments until such time as compliance is achieved. (To date, the UK has never had a financial sanction imposed in relation to an infraction) Prior to the Localism Act, payments of any financial sanctions levied on the UK, as a result of a public authority's breach of EU law, would have been the sole responsibility of the UK Government. This meant that there was less incentive for public authorities to meet their obligations. Part 2 of the Localism Act introduces a discretionary power for a Minister of the Crown to require a public authority to pay some, or all, of a European Court of Justice financial sanction where the public authority has demonstrably caused or contributed to that sanction. The proposed policy statement sets out what the Government considers to be a fair, proportionate and reasonable approach for the use of Part 2.

<http://www.communities.gov.uk/publications/localgovernment/part2localismact>

LANDLORD & TENANT

02 Upper Tribunal: Lands Chamber

Service charge – qualifying long-term agreements s20ZA of the Landlord and Tenant Act 1985 – paras 4 and 5 of Schedule 2 to Service Charges (Consultation Requirements) (England) Regulations 2003

** SOUTHWARK LONDON BOROUGH COUNCIL V LEASEHOLDERS OF SOUTHWARK LONDON BOROUGH (2012) PLSCS 024 – Decision given 19.12.11

Facts: The appellant local authority, SLBC, proposed to enter into five major works agreements with five contractors for substantial repair and renewal works to its housing stock. Each of the agreements would be a qualifying long term agreement (QLTA) within s20 of the Landlord and Tenant Act 1985 and therefore subject to the statutory consultation requirements of that section and the Service Charges (Consultation Requirements) (England) Regulations 2003. SLBC served on the tenants notices of intention to enter into QLTA's, but considered that they were not in a position to provide a proposal containing the information as to estimated expenditure required by para 4 of Schedule 2 to the 2003 Regulations. Before giving notice of their proposal to tenants under para 5 they applied to the LVT, pursuant to s20ZA of the 1985 Act, for dispensation from the requirements of para 4.

Point of dispute: Whether SLBC's appeal would be allowed against the LVT's refusal to grant dispensation, taking the view that there was scope for SLBC to give more information to the tenants and that they might be able to comply with the requirements in the future. One of SLBC's arguments was that it had now complied with para 4(6)(b) as to the current hourly or daily rate applicable to the works under the proposed agreements.

Held: The appeal was allowed. The subparagraphs of para 4 formed a cascading sequence: if an estimate of the tenant's contribution under para 4(4) could not be given, then an estimate of total expenditure under para 4(5) had to be provided; if that was not practicable then para 4(6) required ascertainment of the unit cost or hourly or daily rate; if that also was not reasonably practicable then under para 4(7) the landlord had to state the reasons why it could not comply and the date by which it expected to be able to provide the information under para 4(4), (5) and (6). There was no question of reasonable practicality under para 4(7). The question of dispensation could only arise under para 4(7) and in this case the LVT had erred in addressing dispensation in general rather than specifically in relation to para 4(7). It had also confused what had to go into the proposal itself (which was governed by para 4) with what had to go into the notice of proposal to be served on all tenants under para 5. Its reasoning had been inadequate and the decision must be set aside.

03 Upper Tribunal Lands Chamber

Consent to underletting – charging of fee – s19(1) Landlord & Tenant Act 1927

** HOLDING & MANAGEMENT (SOLITAIRE) LTD V NORTON (2012) PLSCS 25 – Decision given 05.01.12

Facts: N, the respondent, held a long leasehold interest in a property under a lease that had originally been granted by a developer when the property was new, in return for a premium. The lease contained a covenant against underletting without the landlord's consent, not to be unreasonably withheld. The landlord, HM, sought to charge a fee of £100 for giving its consent to a proposed underletting by N. The LVT determined that HM was not entitled to charge this fee since s19(1)(b) of the Landlord and Tenant Act 1927 precluded any requirement for the landlord's consent to underletting, notwithstanding covenants in the leases, since each lease had been "made in consideration wholly or partly of the erection... of buildings".

Point of dispute: Whether HM's appeal against the LVT's determination would be allowed.

Held: The appeal was allowed.

The rationale for s19(1)(b) was that the lessee under a building lease, having carried out the work that formed all or part of the consideration for the grant of that lease, should not be inhibited from assigning it or creating an underlease. In this case, however, N had paid a premium in return for receiving a lease in a new building erected by the landlord and in such circumstances s19(1)(b) was irrelevant as the tenant was not required to carry out any building works as part of the consideration for the lease and it did not apply so as to prevent HM from charging for the grant of consent to the underletting.

04 Upper Tribunal: Lands Chamber

Service charges

** OM PROPERTY MANAGEMENT LTD V BURR (2012) PLSCS 33 – Decision given 26.01.12

Facts: B was a leaseholder on a large estate which was managed by the appellant company, OMPM. OMPM was responsible for maintaining the communal facilities including a leisure centre with a swimming pool heated by gas and was entitled to recover its costs through a service charge to the leaseholders. Owing to a misunderstanding between the developer of the estate and OMPM the amount that the latter charged to leaseholders in respect of gas was less than was actually consumed and when the matter was resolved OMPM demanded the additional amount in its service charge accounts.

Point of dispute: Whether OMPM's appeal would be allowed against the finding of the LVT that it was barred from recovering a large part of the service charge on the grounds that the charges for gas had been incurred more than 18 months before OMPM served the demand on the leaseholders (s20B of the Landlord and Tenant Act 1985). The LVT held that the costs were "incurred" when the gas was supplied.

Held: OMPM's appeal was allowed. The cost had not been incurred when the gas was used – the liability to pay something may have been incurred at that point but that liability did not become a cost until it was paid, or set down in an invoice. A cost and a liability were different things and the word "cost" had been used in s20B of the 1985 Act. The cost of the gas had not been incurred until the supplier presented the bill for it in November 2007 and it had been included in the April 2008 service charge demand, well within the time limit set by s20B.



PLANNING

05 Administrative Court

Planning permission for electricity pylons

* R (ON THE APPLICATION OF SAMUEL SMITH OLD BREWERY (TADCASTER) V SEC OF STATE FOR ENERGY AND CLIMATE CHANGE (2012) PLSCS 22 – Decision given 31.01.12

Facts: National Grid plc proposed to install a 2.2 kilometre long section of overhead electricity line across Green Belt land belonging to the claimant, SSOB. Two inspectors appointed by the Sec of State recommended that the application should be refused on the grounds that the benefit of the proposal, which involved the erection of seven pylons, did not outweigh the harm that would be caused to the openness of the land. The Sec of State took the view that other considerations justified approval being given and granted consent for the installation under s37 of the Electricity Act 1989. He also gave a direction under s90(2) of the Town and Country Planning Act 1990 that planning permission for it and any ancillary development should be granted. A question arose as to whether the same result could be achieved by installing underground cables.

Point of dispute: Whether SSOB's application for judicial review of the Sec of State's decision to grant consent should be allowed. It argued that he had:

- i. failed to apply s38(6) of the Planning and Compulsory Purchase Act 2004 to the s37 consent application by having regard to the development plan;
- ii. failed to determine whether the proposal involved the construction of a building or an engineering operation and had erroneously applied the PPG2 policy in relation to pylons; and
- iii. unreasonably departed from the inspectors' conclusions as to the impact of the proposed works on the landscape character and visual appearance of the area.

Held: SSOB's claim was dismissed.

- i. The Sec of State's decision had been made under s37 of the Electricity Act 1989, which was not a planning act, and once he had made a determination under s90(2) of the 1990 Act the necessary planning permission was deemed to have been granted. By using this process there was no duty on the Sec of State to apply s38(6) of the Planning and Compulsory Purchase Act 2004.
- ii. Under PPG2 if a proposed development was inappropriate there was a presumption against it which would not be displaced in the absence of special circumstances and it did not matter whether the development in question was the construction of a building or the carrying out of an engineering operation. Although he had concluded that the development was inappropriate, the Sec of State had carried out a balancing exercise as to whether the harm caused by that inappropriateness was outweighed by other considerations so as to justify approval: this was a matter of planning judgment.
- iii. It could not be said that the Sec of State had departed unreasonably from the inspectors' conclusions as to the impact on the landscape character and visual appearance of the area. His approach had been rational and matters of planning judgment were within the exclusive province of the Ipa or the Sec of State and SSOB could not do anything about the fact that it did not agree with his conclusions.

06 Consultation on Supplementary Planning Guidance (SPG)

Shaping Neighbourhoods: Children and Young People's Play and Informal Recreation SPG

Deadline for Responses: 27.04.12

This SPG is a review of the Mayor's 2008 SPG on "Providing for Children and Young People's Play and Informal Recreation". The provision of play spaces will become of increasing importance with the emphasis in the new London Plan on promoting quality of life and in encouraging the concept of lifetime neighbourhoods. This draft SPG introduces or provides a greater emphasis than the 2008 SPG on the following:

- the concept of lifetime neighbourhoods and the role of play provision in meeting the needs of all Londoners at every stage of their lives;
- the importance of 'playable' spaces which accommodate the presence of children in the capital and encouraging 'shared' public spaces that meet the needs of both adults and children;
- guidance on using the Community Infrastructure Levy (CIL) to pay for play space and equipment;
- promoting healthy lifestyles, access to nature and the use of natural features; and
- community involvement and volunteering to increase the use and enhance the quality of play space provision.

The draft document contains case studies of well-designed play spaces in dense urban environments.

<http://www.london.gov.uk/publication/shaping-neighbourhoods-children-and-young-people%E2%80%99s-play-and-informal-recreation-spg>

07 London Assembly Consultation

Early Minor Alterations to the London Plan

Deadline for Comments: 23.03.12.

The Mayor has published for public consultation proposals for early minor alterations to the London Plan. These deal with changes to Government policy and other developments which happened too late to be taken into account in the London Plan which was published on 22.07.11. The early minor alterations are as follows:

- Add a new paragraph to the Overview and Introduction chapter of the Plan to deal with the National Planning Policy Framework – giving advice about the status of the Plan following publication of the Framework and explaining that the Mayor will make any necessary changes to the Plan once the final NPPF is published.
- Changes to London Plan policies 3.8-3.13 which deal with affordable housing. In particular, an alteration to the definition of 'affordable housing' in Policy 3.10 is proposed to include the Government's new 'affordable rent' product. Changes are proposed to Policy 3.11 with a new approach to setting targets for the amount of affordable housing in development frameworks, with a reference to the Mayor setting indicative rent guidelines for the new affordable housing product through the London Housing Strategy. Alterations are also proposed to Policy 3.12 to give a clear preference to on-site provision, followed by off-site, and thirdly, money payments in lieu.
- Change parts of Chapter 6 to reflect updated cycle parking standards, following a review carried out by Transport for London.
- Delete the London Plan Glossary definition of 'Air Quality Neutral', as it has been suggested that this is unhelpful. No change to the policy on air quality (7.14) is proposed.

<http://www.london.gov.uk/publication/early-minor-alterations-london-plan>



08 CLG Letter to Chief Planning Officers

Letter to Chief Planning Officers: National Planning Casework Unit – Update

This letter to local authorities updates them on changes to the arrangements for handling planning casework following the closure of the Regional Government Offices. These changes are part of the drive to devolve more powers to localities and to remove burdens and constraints on local and neighbourhood organisations.

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

09 CLG Statistics

Planning Applications: April to September 2011 (England)

The latest national planning application statistics were released on 03.02.11.

In the period April to June 2011, authorities undertaking district level planning in England:

- received 120,600 applications for planning permission;
- decided 109,200 planning applications; and
- granted 89,000 permissions.

In the period July to September 2011, district level planning authorities:

- received 121,300 applications for planning permission, 4% fewer than in the same quarter in 2010;
- decided 116,100 planning applications, 3% fewer than in the same period in 2010; and
- granted 94,200 permissions, down 3 per cent on the same quarter in 2010.

In the year to September 2011, district level planning authorities:

- received 471,900 applications, a decrease of 2% on the figure for the year ending September 2010;
- decided 432,300 planning applications, slightly fewer than the figure of 433,800 decisions in the year ending September 2010;
- granted 350,700 permissions, a slight increase on the figure of 349,700 permissions granted in the year to September 2010; and
- decided 62% of major applications within 13 weeks, 72% of minor and 84% of others in 8 weeks. This compares to 70% for majors, 77% for minors and 87% for others in the year ending September 2010.

<http://www.communities.gov.uk/publications/corporate/statistics/planningapplicationsq22011>

RATING

10 CLG Business Rates Information Letter

Business Rates Information Letter (3/2012): The Business Rates Deferral Scheme and Confirmation of the 2012/13 Multiplier

This letter contains further details of the business rates deferral scheme for 2012-13.

- ratepayers will be able to defer 3.2% of their annual bill for 2012-13
- the reductions in ratepayers' instalments will start in July

The letter also contains formal notification of the Non-Domestic Rating Multipliers for 2012-13.

- the non-domestic rating multiplier is 45.8p
- the small business non-domestic rating multiplier is 45.0p

The formula for the value of "Q" (the inflation factor) used for transitional relief purposes is set out in reg 8 of the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2009 and using this the Department's calculation of Q for 2012/13 (based on the small business multiplier) is 1.056.

<http://www.communities.gov.uk/publications/localgovernment/bril32012>

LEASEHOLD REFORM

11 CLG Publication

Updating Leasehold Value Limits – Consultation: Summary of Responses

This is a summary of responses to the Updating Leasehold Value Limits consultation published on 14.6.11. This consultation contained proposals for the updating of value limits that determine the availability of rights for long leaseholders to extend their leases, or to enfranchise their leasehold houses.

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

12 High Court

Collective enfranchisement – claimants applying for injunction to prevent defendant freeholder from constructing a lightwell in garden prior to enfranchisement – whether lightwell constituted a substantial interference with easement to use garden

** BARRIE HOUSE FREEHOLD LTD V MERIE BIN MAHFOUZ COMPANY (UK)
(2012) PLSCS 15 – Decision given 25.01.12

Facts: BHF was the defendant owner of a block of flats which included some basement units, while the claimants were the lessees of the flats. Para 1 of the first schedule to the lease granted a right to the lessees to use the gardens, forecourts and pathways in the curtilage of the building. The claimants served notice on BHF claiming the right to collective enfranchisement; they also claimed the right to acquire the front garden and argued that their right to use the garden was an easement. BHF accepted that the claimants were entitled to collective enfranchisement but disputed their right to acquire the front garden. BHF sought a leaseback of various parts of the property, including an office unit in the basement with a lightwell which did not actually exist at the time of its counter-notice. However, it commenced work on this by excavating a trench in the front garden.

Point of dispute: Whether the claimants' application for an injunction restraining BHF from further altering the building and requiring it to reinstate the garden area would be allowed. The issue that the court had to decide was whether the creation of the lightwell to serve the basement areas amounted to a substantial interference with the claimants' easement to use the garden under the terms of their leases. The claimants argued that if BHF were allowed to change the character of the property the freehold might be reduced in value and that BHF were under a duty not to carry out any material work before enfranchisement.

Held: The application was dismissed. The test for deciding whether there had been an actionable interference with an easement was whether it could be substantially and practically exercised as conveniently as before. In this case the objective of the easement was decorative enjoyment of the garden and the lightwell did not affect that. Nor was it suggested that the value of the property would be reduced by the presence of a lightwell. An injunction was not appropriate where the interference was trivial or for a short time – in this case the excavation had impaired the garden for about six months, and for this the claimants were awarded nominal damages. There was no duty on a freeholder not to alter premises in any material way after service of the initial notice under the 1993 Act, and the imposition of such a duty would have a broad impact on enfranchisement claims.

REAL PROPERTY

13 Court of Appeal

Equity release scheme – whether appellants having equitable rights with priority over mortgagees

* THE MORTGAGE BUSINESS PLC V COOK
(2012) 05 EG 82 [CS] – Decision given 24.01.12

Facts: The appellant, C, entered into an "equity release scheme" under which he sold his property to a company in order to release funds and the company promised him the right to remain in his home. To fund the purchase the company took out a mortgage with the respondent lender (MB), stating that the property was being purchased on a "buy-to-let" basis and would be let on a six-month assured shorthold tenancy (AST). After completion of the sale and execution of the mortgage the company purported to grant an AST to C but this was not permitted by the mortgage. When the company defaulted on its mortgage payments MB applied to the court for a possession order against C.

Point of dispute: Whether C's appeal would be allowed against the finding of the court below that MB was entitled to possession, the judge having rejected C's argument that he had an equitable interest in the property with priority over MB's charge. C argued that by reason of the company's assurances, from the point of exchange of contracts he had an equitable right over the property, that this right was an overriding interest within para 2 of Schedule 3 to the Land Registration Act 2002 and thus binding on MB.

Held: C's appeal was dismissed.

- i. An overriding interest had to be a proprietary right adversely affecting the title. In this case there had been two separate transactions – the sale of the freehold and the leaseback to the vendor on completion, not an agreement for sale subject to a reservation. The sale contract did not refer to the grant of a lease to C on completion which gave MB the impression that he was selling without reserving any beneficial interests or rights in the property. In those circumstances no equitable interest, whether by estoppel or constructive trust or otherwise could have arisen in C's favour prior to completion. Even if an equity in C's favour had arisen on exchange of contracts that would not have taken priority over MB's mortgage.
- ii. Nor was C entitled to priority on the basis that the company had, prior to registration of its title, granted a tenancy to him for a term of less than seven years, not requiring registration, and taking priority over MB's charge. Prior to registration of the company's transfer its interest only existed in equity; thus any lease that it granted could also only take effect in equity since it could not grant any greater interest than it possessed. In any event, the priority protection period conferred on the mortgagee protected it against a tenant with a lease of seven years or less.



HOUSING

14 CLG Report

English Housing Survey: Headline Report 2010-11

This report brings together initial findings on household trends and the housing stock. It reports on trends on tenure, household type, economic status, buying expectations of renters, overcrowding and under occupation, recent movers and mortgage difficulties. It also provides an overview of England's housing stock including housing conditions, energy performance, energy efficiency, decent homes and damp. The main findings of this survey include the following:

- in 2010/11, 66% of households were owner occupiers, continuing a gradual downward trend that has been observed since 2007;
- average weekly rents in the private rented sector continue to be higher than those in the social rented sector (£160 per week compared to £79);
- there is a long term upward trend in the number of households experiencing overcrowding in both sectors;
- the energy efficiency of the housing stock has continued to improve; and
- the proportion of dwellings experiencing damp problems has fallen from 13% in 1996 to 7% in 2010.

<http://www.communities.gov.uk/publications/corporate/statistics/ehs201011headlinereport>

15 CLG Bulletin

English Housing Survey Bulletin: Issue 6

This bulletin summarises the main report findings and brings users up to date with other progress on the survey.

<http://www.communities.gov.uk/publications/housing/ehsbulletin6>

16 CLG Statistics

House Price Index – December 2011

The latest UK house price index statistics include data based on mortgage completions during December 2011. Key points from the release include the following:

- in December UK house prices increased by 0.1% over the year and by 0.4% over the month;
- the average mix-adjusted UK house price was £205,269 (not seasonally adjusted);
- average house prices increased by 0.4% over the quarter to December, compared to an increase of 0.6% over the quarter to September (seasonally adjusted);
- average house prices fell in Wales by 1.6%, in Scotland by 4.6% and in Northern Ireland by 8.1%, but rose by 0.5% in England;
- prices paid by first time buyers were 1.6% higher on average than a year earlier, but prices paid by former owner occupiers were 0.5% lower; and
- prices for new properties were 9.5% higher than a year earlier whilst prices paid for pre-owned properties fell by 0.6% over the same period.

<http://www.communities.gov.uk/publications/corporate/statistics/hpi122011>

17 RICS Publication

RICS UK Housing Market Survey – January 2012

Although at national level this survey highlights a negative price picture (16% more surveyors recorded price falls rather than rises during January) there has been some improvement in short term activity levels due to the imminent expiry of the first-time buyer stamp duty exemption on 24 March (for homes costing less than £250,000) – this has driven up demand over availability as new households seek to beat the deadline. London and the North were the only regions where more surveyors recorded price rises rather than falls.

http://www.rics.org/site/scripts/download_info.aspx?fileID=11260

CONSTRUCTION

18 Technology and Construction Court

Dangerous building – ss77 and 78 Building Act 1984

* SWINDON BOROUGH COUNCIL V FOREFRONT ESTATES LTD (2012) PLSCS 32 – Decision given 14.02.12

Facts: A Grade II listed building in Swindon owned by the defendant, FE, had fallen into disrepair and was in a dangerous state. The claimant council, SBC, served on FE an urgent works notice pursuant to s54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and in July 2010 it obtained an order from the magistrates' court allowing them access to the building to carry out the works.

Point of dispute: Whether SBC could recover the costs incurred in carrying out the works under s78 of the Building Act 1984. FE argued that it could not because SBC could reasonably have proceeded under s77(1) which provided for the council to apply to the court for an order requiring the owner to deal with a dangerous building. FE also required SBC to prove that the works were necessary to render the roof of the building safe and that the costs were reasonably incurred.

Held: SBC's claim was allowed.

- i. Both ss77 and 78 applied where a building or structure was in a dangerous condition, but under s78 there was an additional requirement that immediate action should be taken to remove the danger. Section 77(1) applied where a building was dangerous but immediate action was not necessary. If the owner failed to carry out the necessary works within the time specified the council could do them and recover the costs from the owner. On the evidence in this case, there was no doubt that the structure of the roof was in a dangerous state or condition.
- ii. The distinction between ss77 and 78 showed that the dangerous state of a building did not by itself justify a council in taking emergency measures under s78. The risks in terms of the consequences from the building's dangerous state had to be evaluated. In this case the key risks had been identified as the collapse of the theatre roof and resultant asbestos contamination into the air as well as falling masonry. There was a high risk of this happening with potentially serious consequences for the health and safety of people in the building's vicinity.
- iii. Under s78(3) SBC could recover from FE the expenses it had incurred.
- iv. As from the date of the completion of the works the expense and interest accrued were, until recovered from the owner, a charge on the premises under s107 of the 1984 Act. This was a local land charge and should be registered as such.

19 CLG Consultation

Changes to Building Regulations in England

Deadline for Comments: 27.04.12
(apart from s2 (energy efficiency): 27.03.12)

In July 2010 the Buildings Regulations Minister invited external partners to submit ideas and evidence on ways to improve the Building Regulations, with particular focus on reducing the regulatory burden, delivering better levels of compliance and cutting carbon emissions in new and existing buildings. The responses received were used to develop a programme examining a number of areas of the Regulations. The consultation is in four sections:

1. **Section One** – outlines the scope of the consultation, its structure and contents and describes how the consultation fits with current Government policies aimed at reducing the burden of regulation on business. It also invites comments on specific consultation proposals relating to radon protection, changing places, toilets, domestic security, structural safety (Eurocodes), fire safety, the use of Access Statements, the rationalisation of Parts M, K and N, and revising the Approved Document supporting Regulation 7.
2. **Section Two** – presents proposals to change Part L and associated guidance to raise energy performance standards for new and existing buildings, and to introduce new requirements relating to works carried out in existing buildings, including domestic extensions and window or boiler replacements.
3. **Section Three** – outlines the options being considered in the review of Part P (Electrical safety – dwellings) and a proposal for reducing the costs of complying with this part.
4. **Section Four** – contains proposals aimed at improving the efficiency of the building control system by reducing regulatory burdens, improving compliance with the Building Regulations and encouraging industry to take greater responsibility for its actions.



Web links to summaries of the proposed changes and to the individual consultations on each of the four Sections can be found below.

<http://www.communities.gov.uk/news/corporate/2077965>

www.communities.gov.uk/documents/planningandbuilding/pdf/2077415.pdf

<http://www.communities.gov.uk/planningandbuilding/buildingregulations/buildingregulationschanges/>

<http://www.communities.gov.uk/publications/planningandbuilding/brconsultationsection1>

<http://www.communities.gov.uk/publications/planningandbuilding/brconsultationsection2>

<http://www.communities.gov.uk/publications/planningandbuilding/brconsultationsection3>

<http://www.communities.gov.uk/publications/planningandbuilding/brconsultationsection4>

20 CLG Impact Assessment

Proposed changes to the building control system: Consultation stage impact assessment

This Impact Assessment is a supporting document for Section Four of the 2012 Building Regulations consultation. It sets out the proposed changes to the building control system and provides an analysis of the associated costs and benefits.

<http://www.communities.gov.uk/publications/planningandbuilding/buildingcontrolsystemia89>

21 CLG Impact Assessment

Changes to Part P (Electrical safety – Dwellings) of the Building Regulations in England: Consultation stage impact assessment

This Impact Assessment sets out the proposed changes to Part P and provides an analysis of the associated costs and benefits.

<http://www.communities.gov.uk/publications/planningandbuilding/changespartpia84>

22 CLG Impact Assessment

Rationalisation of Parts K, M and N of the Building Regulations in England: Consultation stage impact assessment

This Impact Assessment sets out proposed changes to Part K (Protection from collision falling and impact), Part M (Access to and use of buildings) and Part N (Glazing) of the Building Regulations and provides an analysis of the associated costs and benefits.

<http://www.communities.gov.uk/publications/planningandbuilding/rationalisationpartkmnia78>

23 CLG Impact Assessment

Removing inconsistency in local fire protection standards: Final impact assessment

This Impact Assessment, which supports Section One of the 2012 Building Regulations consultation, sets out changes to the fire protection provisions in Local Acts and provides an analysis of the associated costs and benefits. These changes will remove discretionary powers that currently exist for some local authorities in England to impose requirements for fire protection over and above those required by Building Regulations.

<http://www.communities.gov.uk/publications/planningandbuilding/localfireprotectionia37>

24 CLG Impact Assessment

Changes to Part M (Access to and use of buildings) of the Building Regulations in England: Access Statements – Consultation stage impact assessment

This Impact Assessment sets out proposed changes to the way in which applicants demonstrate compliance with Part M of the Building Regulations and provides an analysis of associated costs and benefits. The proposed changes support a risk based approach to demonstrating compliance by moving away from reliance on written access statements.

<http://www.communities.gov.uk/publications/planningandbuilding/changespartmia79>

25 CLG Impact Assessment

Proposed changes to Part L (Conservation of fuel and power) of the Building Regulations 2012/13 in England – Consultation stage impact assessment

This Impact Assessment sets out the proposed changes to Part L and provides an analysis of the associated costs and benefits. The proposals set out options for improvements in the performance standards applying to new homes and non-domestic buildings as the next step towards “zero carbon”, and options for changes to the requirements applying to works carried out in existing buildings.

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

26 CLG Impact Assessment

Changes to Part A (Structure) of the Building Regulations in England: Eurocodes – Consultation stage impact assessment

This Impact Assessment is another supporting document for Section One of the 2012 Building Regulations consultation. It sets out the proposed changes to Part A (Structure) of the Building Regulations and provides an analysis of the associated costs and benefits. The proposal is to update the standards currently referenced in the guidance in Approved Document A by referring to the new British Standards based on Eurocodes.

<http://www.communities.gov.uk/publications/planningandbuilding/changespartaia76>

27 CLG Impact Assessment

Changes to Part C (Site preparation and resistance to contaminants and moisture) of the Building Regulations in England: Radon – Consultation stage impact assessment

This Impact Assessment, which is a supporting document for Section One of the 2012 Building Regulations consultation, sets out the proposed changes to Part C (Site preparation and resistance to contaminants and moisture) and provides an analysis of the associated costs and benefits. It is proposed to amend the guidance in Approved Document C so that it refers to the most up-to-date radon maps, in effect, ensuring that the current safety provisions are targeted at appropriate parts of the country.

<http://www.communities.gov.uk/publications/planningandbuilding/changespartcia77>

28 CLG Impact Assessment

Changes to Part B (Fire safety) of the Building Regulations in England: Light Diffusers and Wall Coverings – Consultation stage impact assessment

This Impact Assessment, which is a further supporting document for Section One of the 2012 Building Regulations consultation, sets out proposed changes to the provisions of Requirement B2 of the Building Regulations relating to internal fire spread (linings). These changes are intended to reduce the burden of these provisions on thermoplastic lighting diffusers and decorative wall coverings, whilst maintaining adequate levels of safety.

<http://www.communities.gov.uk/publications/planningandbuilding/changespartbia83>

29 CLG Report

Risk assessment decision making tool for building control bodies: Summary report

CLG is publishing this report alongside the 2012 consultation on changes to the Building Regulations as some of the findings in it are discussed in that consultation and used in the Impact Assessments that accompany it. This summary report covers the development of a risk assessment decision making tool (including testing and piloting) for building control, to assist in determining what to inspect and at what stage for different building projects.

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

30 CLG Report

Consideration of amendment of the Building Regulations: Approved Document A (Structure) – Freestanding masonry walls – 2004 initial impact assessment

CLG is publishing this research report alongside the 2012 consultation on changes to the Building Regulations as some of the findings in it are discussed in that consultation. This report provides an informed assessment of the safety risks associated with the construction of freestanding masonry boundary walls and a cost-benefit assessment of this risk. The findings of this research indicated that there was not an economic case on safety grounds to be made for bringing boundary walls under the control of building regulations.

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



31 CLG Report

Risk assessment decision making tool for building control bodies: Final risk assessment guidance

CLG is publishing this report alongside the 2012 consultation on changes to the Building Regulations as some of the findings in it are discussed in that consultation and used in the Impact Assessments that accompany it. It sets out a risk assessment approach that can be used by Building Control Bodies when developing service schedules for the inspection of building work. It covers common projects such as loft conversions as well as more complex, larger projects such as hospitals.

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

32 CLG Report

Report of economic research related to the 2010 review of Building Regulations Parts A and C

CLG is publishing this report alongside the 2012 consultation on changes to the Building Regulations as some of its findings are discussed in the consultation and used in the Impact Assessments that accompany it. The report looks at a number of changes to Approved Document guidance associated with the introduction of new structural design codes (Eurocodes), to disproportionate collapse, to fixings, to flooding, to Radon, and with general updating of Approved Documents A and C.

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

33 CLG Report

Mapping the interfaces between building control and other regulatory regimes which impact on a building – Final report: BD 2733

CLG is publishing this report alongside the 2012 consultation on changes to the Building Regulations as some of the findings in it are discussed in that consultation. It highlights the key issues arising within and between the Building Regulations and other regulatory regimes and includes examples of some of these, together with the process maps and tables of regulations for five project scenarios (see appendices case studies under Download section).

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

34 CLG Report

Economic and analytical support for impact assessment of proposals to amend the Building Regulations in 2013

This research report is published alongside the consultation on changes to the Building Regulations as some of its findings are discussed in that consultation and used in the Impact Assessments that accompany it. The report sets out the analytical and economic research which helped inform the Department's analysis of options and recommendations on future changes to the Building Regulations.

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

35 CLG Report

Research into the operation of the Warranty Link Rule including in respect of contaminated land: BD 2729 – Final report

This research report is being published alongside the consultation on changes to the Building Regulations as some of its findings are discussed in that consultation and used in the Impact Assessments that accompany it. The research examined the policy basis for the Warranty Link Rule.

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

HIGHWAYS

36 High Court

Removal of protest camp from highway – whether grant of injunctive relief a disproportionate interference with defendants' right to freedom of expression and assembly under Articles 10 and 11 of the European Convention on Human Rights

** CITY OF LONDON CORPORATION V SAMEDE
(2012) PLSCS 21 – Decision given 18.01.12

Facts: S and others set up a protest camp in the Churchyard of St Paul's cathedral in the City of London comprising more than 200 tents which were used by the protesters for accommodation, meetings, food provision and other services. The camp covered an area of highway land, ownership of which was vested in the claimant corporation (CLC) as highway authority. CLC was also the planning authority for the area. Attempts to reach agreement with the protestors as to a time for removal of the camp had failed and neither a written notice under s143 of the Highways Act 1980 nor an enforcement notice under the Town and Country Planning Act 1990 had been complied with. CLC brought proceedings against S to secure the removal of the camp, including: (i) possession orders; (ii) injunctive relief and declarations as to its right to remove the tents; and (iii) injunctions. S argued that the grant of such relief would be an unjustified interference with their right to freedom of expression and assembly under Articles 10 and 11 of the European Convention on Human Rights, while CLC contended that the interference was justified in order to protect the rights and freedoms of others, including Article 9 rights of worshippers at the cathedral.

Point of dispute: Whether CLC would be granted the relief it sought. The main issues were whether CLC had established its entitlement to possession and/or injunctive relief and, if so, whether the interference with S's rights that the grant of such relief would represent was lawful, necessary and proportionate.

Held: CLC's claim was allowed.

- i. CLC was entitled to an order for possession of the whole of area 3 (a wider area of highway and open land) so as to prevent the protesters from moving off areas 1 (highway) and 2 (the Church's land) and onto area 3. Apart from their rights under Articles 10 and 11 they had no arguable right to occupy, control or take possession of highway land from CLC. Proof that S's occupation of area 1 constituted an unreasonable obstruction of the highway was not a prerequisite of the claim for possession. The common law recognised a limited right to protest on the highway provided that it did not constitute a nuisance and did not impede the right of the public to pass and repass. The statutory scheme provided for in the Highways Act 1980 could not be reconciled with the concept of third parties occupying, controlling and taking possession of the highway.
- ii. CLC was entitled to the injunctions it sought under s30 of the 1980 Act, as well as a declaration that under its common law powers it could enter area 1 and remove any tents that were not removed in accordance with the s130 order. The camp was an unreasonable obstruction. An encampment of between 100 and 200 tents, accommodating a large community of protestors and which seemed likely to remain until a court intervened could not sensibly be regarded as reasonably transitional in nature.
- iii. The retention of occupied tents represented a breach of planning control and the presence of the tents was sufficient to amount to a material change of use. CLC was entitled to injunctions requiring the removal of tents from areas 1 and 2 and to prevent the further pitching of tents in area 3 (s187B of the 1990 Act).
- iv. The grant of these orders did not constitute an unwarranted interference with S's rights under Articles 10 and 11. It was impossible to reconcile the presence of the protest camp with the lawful function and character of the land as highway. The presence of the camp had seriously interfered with the Article 9 rights of worshippers as well as being a nuisance to the Church. Other harms had arisen including nuisance by the generation of noise and smell, damage to local business trade and an increase in crime and disorder. The grant of the relief sought by CLC was not disproportionate but struck a fair balance between the needs of the community and the individuals concerned.



ENVIRONMENT

37 Defra National Policy Statement

National Policy Statement for Waste Water

This National Policy Statement (NPS) sets out Government policy for the provision of major waste water infrastructure. It will be used by the decision maker as the primary basis for deciding development consent applications for waste water developments that fall within the definition of Nationally Significant Infrastructure Projects (NSIP), as defined in the Planning Act 2008. In making decisions on waste water NSIPs, the decision maker must also have regard to any local impact report submitted by a relevant local authority, any relevant matters prescribed in regulations, any Marine Policy Statement (MPS) and marine plans and any other matters which it considers are both important and relevant to its decision.

<http://www.defra.gov.uk/publications/2012/02/09/pb13709-waste-water-national-policy-statement/>

38 Defra Report

Developing a joint approach to improving flood awareness and safety at caravan and camping sites in England and Wales

Around 28% of caravan and camping sites in England and Wales are at flood risk from rivers and the sea, with over two-thirds of these being at either significant or moderate flood risk. This report details the work undertaken by a joint industry-government working group to identify solutions to enhance public flood safety at caravan and camping sites without imposing burdens on business or stifling the tourism and leisure industries' contribution to economic growth. It sets out a number of recommendations for action that could be taken the Government, local emergency planners, site owners and operators.

<http://www.defra.gov.uk/publications/2012/02/15/pb13712-flood-camp-sites/>

GENERAL

39 RICS Survey

RICS UK Construction Market Survey Q4 2011

This survey shows that activity in the construction sector remains subdued:

- total workloads have continued to fall with private commercial building remaining the only area not recording falling workloads;
- the public sector has continued to record the most severe falls in workloads;
- the outlook for the industry remains downcast – workloads are projected to be broadly flat over the next 12 months with respondents expecting further falls in employment and profit margins; and
- extra questions asked this quarter reveal scepticism towards government initiatives aimed at supporting the construction sector.

http://www.rics.org/site/scripts/download_info.aspx?downloadID=8313&fileID=11223

40 Statutory Instrument

SI 2012/310 The London Legacy Development Corporation (Establishment) Order 2012

This order, which comes into force on 09.03.12, establishes a Mayoral development corporation in relation to an area, designated as a Mayoral development area, which encompasses the site of the Olympic Park and surrounding areas. The Mayoral development corporation is to be called the London Legacy Development Corporation.

<http://www.legislation.gov.uk/uksi/2012/310/contents/made>

Initiative to help ailing high streets

The latest shop vacancy report revealed that the national average vacancy rate in over 700 town centres is now 14%, although there are wide differences in vacancy rates, ranging from 0% to 36%. Above average vacancy rates are to be found in the Midlands and North of England while the best performing centres are in the South and West – Exeter, Kingston, Camden, Cambridge, Taunton, Salisbury and St Albans. The study showed that while prime centre “core” areas are doing well, secondary centres and outlying areas are struggling as multiple retailers leave for larger centres or out of town locations, or as a result of business failure. A new initiative has been launched by the Local Government and Housing Minister and the retail guru, Mary Portas, to help ailing high streets and town centres. It will take the form of a competition and the winners will be the 12 towns which come up with the best High Street blueprints, as recommended in Mary Portas’ High Street review which was published before Christmas. The winners will share in a £1m fund and they will create Town Teams who will be backed by the Minister, Whitehall and Mary Portas as they take forward the recommendations from the review for their area.



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Evebrief has been established for more than 30 years. It is a summary of the latest statutory and legal cases affecting the property industry and is widely regarded in the industry as the most comprehensive document of its type.

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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

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SCOTLAND

LOCAL GOVERNMENT

01 Scottish Government Publication

Council Tax On Long-Term Empty Properties And The Housing Support Grant – Consultation Responses

The Scottish Government proposes to give Councils discretion to increase Council Tax charges for homes that are left empty for longer than six months in order to encourage owners to make these homes available for rent or for sale. It is also proposed to remove legislation which currently requires the Scottish Government to provide funds through a "Housing Support Grant" to local authorities whose housing debts reach a certain level. The aim of this is to enable Government funding to be targeted at supporting key housing priorities, such as building new affordable homes, and to ensure that local authorities only borrow for housing when they are confident of their ability to repay loans.

<http://www.scotland.gov.uk/Publications/2012/02/7761>

Planning

02 Responses to Scottish Government consultation paper

Analysis of Responses to Consultation on Non-Domestic elements of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992

The purpose of this consultation paper was to invite comments on the Scottish Government's proposals to review permitted development rights for non-domestic development. The consultation focussed on specific issues raised by stakeholders including climate change, flood risk management, disability access, infrastructure, commercial and retail, caravans, farmers' markets, hill tracks and waste management.

<http://www.scotland.gov.uk/Publications/2012/01/5253>



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RATING

03 Statutory Instrument

SSI 2012/27 – The Non-Domestic Rate (Scotland) Order 2012

This order, which comes into force on 01.04.12, prescribes a rate of 45 pence in the pound as the non-domestic rate to be levied throughout Scotland in respect of the financial year 2012-13. This compares with the rate of 42.6 pence for 2011-12.

<http://www.legislation.gov.uk/ssi/2012/27/contents/made>

04 Statutory Instrument

SSI 2012/28 – The Non-Domestic Rates (Levying) (Scotland) Regulations 2012

This Order comes into force on 01.04.12 and makes provision for the amount payable as non-domestic rates in respect of certain non-domestic subjects in Scotland. Regulation 3 provides for the general reduction in rates for a ratepayer of non-domestic subjects with a rateable value of £18,000 or less, this reduction being on a sliding scale of between 25% and 100%. Regulation 4 provides a formula for the additional rates that are to be paid for lands and heritages with RV of more than £35,000.

<http://www.legislation.gov.uk/ssi/2012/28/contents/made>

05 Statutory Instrument

SSI 2012/29 – The Non-Domestic Rates (Levying) (Scotland) (No 2) Regulations 2012

This order provides for additional rates to be paid in respect of lands and heritages used as shops which have RV of more than £300,000 and which are licensed to sell alcohol for consumption off the premises and registered to sell tobacco.

<http://www.legislation.gov.uk/ssi/2012/29/contents/made>

ENERGY

06 Scottish Government Report

Scotland's Renewables Routemap – Short Life Task Force on Streamlining Energy Development Licensing and Consents – Final Report

The short life Energy Planning and Consenting Task force was established to bring together offshore renewable developers and environmental regulators to produce a report which would promote greater streamlining and efficiency of Scotland's planning and consenting regimes. The aim is to enable Scotland to meet its offshore renewable ambitions as set out in the 2020 Routemap for Renewable Energy in Scotland.

<http://www.scotland.gov.uk/Topics/Business-Industry/Energy/Energy-sources/19185/OffshoreTFReport>

GENERAL

07 Results of Survey

Scottish Vacant and Derelict Land Survey 2011

This bulletin presents a summary of results from the 2011 Scottish Vacant and Derelict Land Survey. This was the 20th survey in a series which included a first pilot study in 1988, the first completed survey in 1990, and enhanced surveys conducted annually since 1993. The survey, which is a co-operative effort between local authorities and the Scottish Government, is the only national data source for vacant and derelict land.

<http://www.scotland.gov.uk/Publications/2012/01/9982>

08 Responses to Consultation

Climate Change (Scotland) Act 2009: Section 63 Regulations and Guidance For Non Domestic Buildings

These are the consultation responses on the Climate Change (Scotland) Act 2009: s63 Regulations and Guidance for Non Domestic Buildings.

<http://www.scotland.gov.uk/Publications/2012/02/8214>

09 Scottish Government Consultation

Consultation on Implementation of Directive 2010/31/Eu on The Energy Performance of Buildings (EPBD Recast)

These are Consultation responses on the Implementation of Directive 2010/31/Eu on The Energy Performance of Buildings (EPBD Recast).

<http://www.scotland.gov.uk/Publications/2012/02/5739>

10 Scottish Government Guidance

The Flood Risk Management (Scotland) Act 2009 Flood Protection Schemes – Guidance for Local Authorities, Chapter 5 Project Appraisal; Assessment of Economic, Environmental and Social Impacts

This document contains interim guidance for Scottish local authorities on the economic, social and environmental aspects of project appraisal for flood protection schemes promoted under the Flood Risk Management (Scotland) Act 2009. It identifies methods for valuing positive and negative impacts in monetary terms and recommends a decision process, based on the principles of sustainable flood risk management.

<http://www.scotland.gov.uk/Publications/2012/02/9806>

WALES

LOCALISM

11 Statutory Instrument

WSI 2012/193 The Localism Act 2011 (Commencement No 1) (Wales) Order 2012

This order, the first Commencement Order made by the Welsh Ministers under the Localism Act 2011, brings into force on 31.01.12 ss38-43 of the Act (relating to pay accountability) and s69 (that relates to discretionary relief from non-domestic rating).

<http://www.legislation.gov.uk/wsi/2012/193/contents/made>

PLANNING

12 Welsh Government Planning Policy

Planning Policy Wales (Edition 4, February 2011)

Planning Policy Wales (PPW) sets out the land use planning policies of the Welsh Assembly Government. It is supplemented by a series of Technical Advice Notes whilst procedural advice is given in circulars and policy clarification letters. This document consolidates and replaces Planning Policy Wales, 2002 and Ministerial Interim Planning Policy Statements issued between 2002 and 2009, all of which have now been cancelled.

<http://new.wales.gov.uk/topics/planning/policy/ppw/?lang=en>

ENVIRONMENT

13 Welsh Assembly Government Consultation

Sustaining a Living Wales

Deadline for Responses: 31.05.11

This consultation seeks views on proposed changes to the governance and delivery of the management and regulation of the environment in Wales, based on the ecosystem approach. An ecosystem is all living things, and how they interact with each other and their environment.

The following documents are available:

- the consultation document;
- the underpinning narrative;
- definitions – what do the technical terms mean?;
- case studies – examples of action that is being taken to help ecosystems in Wales;
- tools – describes how the Welsh Government might provide simple tools to help in decision making; and
- background documents.

<http://wales.gov.uk/consultations/environmentandcountryside/sustainingwales/;jsessionid=8RJfPwzTZhNDv7ppxf4zJx7jMIhv6HYCXV11kYC2wLcr2qG892ZK!436035087?lang=en>



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NORTHERN IRELAND

PLANNING

14 Department of the Environment Consultation

Consultation on Demolition and Development

Deadline for Comments: 06.04.12

This consultation is concerned with the Department's proposal to amend its Direction on Demolition and Development and to introduce permitted development rights for the Demolition of Buildings.

http://www.planningni.gov.uk/index/news/news_consultation/consultation_on_demolition_and_development.htm

GENERAL

15 Statutory Instrument

NISR 2012/20 The High Hedges (2011 Act) (Commencement) Order (Northern Ireland) 2012

This order provides for the coming into operation of this Act on 31.01.12.

<http://www.legislation.gov.uk/nisr/2012/20/contents/made>

16 Statutory Instrument

NISR 2012/33 The High Hedges (Fee) Regulations (Northern Ireland) 2012

The High Hedges Act (Northern Ireland) 2011 gives local councils the power to deal with complaints about high hedges which are having an adverse impact on a neighbour's reasonable enjoyment of his property. A complaint must be made to the council in whose area the land on which the hedge is situated lies and must be accompanied by a fee determined by the local council. These Regulations, which come into force on 31.03.12, prescribe the maximum amount of that fee.

<http://www.legislation.gov.uk/nisr/2012/33/contents/made>