

EVEBRIEF

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IF IT LOOKS TOO GOOD TO BE TRUE, THEN IT PROBABLY IS...



Steve Hile
Editor

At Item 19 we report on the guidance issued for the Government's new empty property relief scheme for new buildings completed after October this year. Developers and Business Groups had campaigned hard for rate relief, saying that speculative development and new business was being held back by empty property rates, cutting in on new builds after just three months.

This scheme extends that initial period of empty rate relief to 18 months, which on the face of it seems generous but, as ever with any Government initiative, the devil is in the detail and the old adage that "if it looks too good to be true, then it probably is" certainly rings true here. The way the legislation has been drafted brings it under EU state Aid Rules, which limits financial relief to any company (not property) to €200,000 over three years – or circa £55,000 per annum. Whilst this may help some very small local developers, it is unlikely to have any impact at all on job creating speculative development, even outside the South East, because of the low level of relief available.

Also in this edition we report on a considerable number of amendments or updates to the Town and Country Planning Act 1990 and The Growth and Infrastructure Act 2013, covering a variety of procedural changes. This covers new time frames for Hearings and the Inquiries Procedure and documentation required amongst other procedural matters.

Steve Hile



GERALDEVE

PLANNING

01 High Court

Interpretation of planning policy – erection of tall building

*ISLINGTON LONDON BOROUGH COUNCIL V SEC OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT (2013) PLSCS 209 – Decision given 30.07.13

Facts: ILBC refused planning permission for the demolition and clearance of various buildings on a site in Islington, North London, and the erection of a 25-storey tower on the grounds that the proposed development would be contrary to policy CS9 of the core strategy. The inspector appointed by the Sec of State allowed the applicant's appeal against the refusal of permission finding that the development would not adversely affect the character and appearance of the area and did not conflict with the relevant development plan.

Point of dispute: Whether ILBC's appeal against the inspector's decision would be allowed. ILBC contended that the inspector had misinterpreted policy CS9 which stated that Islington had a predominantly medium to low level character and that tall buildings were "generally inappropriate". With the possible exception of a small area in the south of the borough tall buildings would not be supported.

Held: ILBC's appeal was allowed.

- i. The construction of a planning policy was a matter for the court. A development plan had to be applied as a whole – a proposal must accord with the plan considered as a whole and it did not have to accord with each and every policy in it. The duty to give reasons in a decision was not to be approached in an over-technical way.
- ii. The court had to construe the meaning of a policy such as CS9 in context. It meant that tall buildings in the borough of Islington were inappropriate and would not be supported except in the specific named areas. The proposed development was clearly in conflict with CS9 and there were no other policies which could be pointed to which would make it accord with the development plan.

02 High Court

Application to quash planning permission for exclusive golf club with hotel and spa facilities in protected landscape area – whether developer demonstrating "need" for further golfing facilities in the area as required by applicable planning policies

*R (ON THE APPLICATION OF CHERKLEY CAMPAIGN LTD) V MOLE VALLEY DISTRICT COUNCIL (2013) PLSCS 217 – Decision given 22.08.13

Facts: A developer applied to MVDC for planning permission to develop a Grade II listed building with an estate which was situated within the green belt in the Surrey Hills as an exclusive 18-hole golf course, hotel, health club and spa. The site was in a designated area of great landscape value, part of it was within an AONB and it also included or adjoined land that was of scientific, conservation or archaeological significance. Although there were many objectors to the proposals and the planning officers recommended refusal of permission, the development control committee disagreed and granted permission in September 2012. They indicated that the development would meet a need for recreation facilities in the countryside and achieve economic benefits overall.

Point of dispute: Whether the claimant's application for judicial review of the decision to grant permission for the development would be allowed. It contended that the development would damage a landscape of national importance and that no need for golf facilities had been demonstrated. The developer contended that the concept of "need" could be equated to "demand" or "viability" and that as there was proof of demand for another exclusive golf club in the area this demonstrated that there was a need for it.

Held: The claim was allowed. A local planning authority had to properly understand the development plan – proof of private "demand" for exclusive golf facilities did not equate to "need" in the context of planning policy. "Need" meant that it was "required" in the interests of the public and the community as a whole i.e. it was necessary in the public interest sense; nor was proof of viability enough to demonstrate need. There was a clear distinction between public "need", namely what was in the public planning interest, and private "demand", which was a particular type of development that was in the developer's interest. Surrey clearly did not need another golf course, in the proper public interest sense, as there were already a very large number of them, and the more exclusive the proposed development, the less public need was demonstrated. MVDC's decision to grant planning permission was unlawful and should be quashed.

03 High Court

Application for planning permission for residential development in green belt – whether planning inspector erring in using housing target figure in revoked regional spatial strategy instead of reference to full objectively-assessed housing needs

*HUNSTON PROPERTIES LTD V SEC OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT (2013) PLSCS 216 – Decision given 05.09.13

Facts: HP applied for outline permission for a development of 116 dwellings, a 72-bed care home, road access, two tennis courts and open space on a 5ha site in St Albans. The site was on open agricultural land within the green belt. Permission was refused and HP appealed, relying on evidence of a projected annual housing need for 688 households in St Albans over a five-year period from 2013-2018. Comparing this with the number of dwellings that could be accommodated on sites identified by the lpa as deliverable, this left a shortfall of 1417 dwellings. HP argued that this shortfall amounted to very special circumstances sufficient to justify its development in the green belt. The inspector rejected this argument, finding that the appropriate housing target was 360 per annum, this figure being the minimum annual average development figure for St Albans set out in the former regional spatial strategy (RSS) for the area. The RSS had been revoked in January 2013, but the St Albans lpa had not yet identified a five-year supply of deliverable sites sufficient to meet the full objectively-assessed housing needs for their area, as required by the new NPPF which replaced the RSS.

Point of dispute: Whether HP's application to quash the inspector's decision would be allowed. The inspector had taken the view that as there was a "policy vacuum", this could be most appropriately filled by using the figures from the revoked RSS. These indicated that there was no unmet housing need, and no very special circumstances to justify HP's development. HP argued that in adopting the RSS housing figure the inspector had misconstrued and misapplied the relevant parts of the NPPF.

Held: HP's claim was allowed. Where there was no up-to-date development plan against which the claimant's planning application could be assessed, the NPPF presumption in favour of sustainable development required that planning permission be granted unless the policy in the NPPF concerning the green belt indicated that development should be restricted. The green belt policy was not an outright prohibition on development in the green belt but a prohibition on inappropriate development in the absence of very special circumstances. The inspector's approach had been wrong in law. The proper course would have been to assess need, then to identify unfulfilled need having regard to the supply of deliverable sites over the relevant period, before deciding whether fulfilling the need, together with the other factors relied on in support of the development, together demonstrated very special circumstances that clearly outweighed the identified harm to the green belt that would be caused by the proposed development. The inspector's error was fundamental and could realistically have made a difference to the outcome and her decision would be quashed.

04 Statutory Instrument

SI 2013/2114 The Town and Country Planning (Appeals) (Written Representations Procedure and Advertisements) (England) (Amendment) Regulations 2013

- These Regulations, which come into force on 01.10.13, amend the 2009 Regulations for most appeals made under s78 of the Town and Country Planning Act 1990.
- They expand the scope of the expedited procedure in Part 1 of the 2009 Regulations which will now be used to determine advertisement consent and minor commercial appeals (with those terms defined in article 2(1) as amended) as well as householder appeals. Minor commercial appeals relate to minor development to a building in use for a purpose set out in the inserted Schedule to the Regulations – this Schedule reproduces the uses in Part A of the Schedule to the Town and Country Planning (Use Classes) Order 1987.
- To support this change in relation to advertisement appeals, these Regulations also amend the Town and Country Planning (Control of Advertisement) (England) Regulations 2007. The appellant's notice of appeal must now be on a form obtained from the Sec of State and copied to the local planning authority.
- Similar changes are being made in relation to minor commercial appeals through the Town and Country Planning (Development Management Procedure (England) (Amendment No. 2) Order 2013.

<http://www.legislation.gov.uk/uksi/2013/2114/contents/made>



05 Statutory Instrument

2013/2115 The Planning (Listed Buildings and Conservation Areas) (Amendment No. 2) (England) Regulations 2013

- These Regulations come into force on 01.10.13.
- They amend Regulation 8 of the 1990 Regulations which sets out the documents that must be submitted with a notice of appeal.
- The amendments apply to most appeals under s20 of the Planning (Listed Buildings and Conservation Areas) Act 1990, but not if a national security direction is issued by the Sec of State, and not to urgent Crown development.
- Applicants will be required to submit a greater amount of information with their appeal forms: a full statement of their case; a statement of what procedure they think should be used to consider their appeal; and, where relevant, a draft statement of common ground.
- Copies of these documents and the notice of appeal will have to be sent to the local planning authority as well as the Sec of State.
- If the appeal is to be determined by an inquiry, the procedure is set out in the Town and Country Planning (Inquiries Procedure) (England) Rules 2000, or the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000 if the appeal is to be determined by inspectors appointed by the Sec of State. If the appeal is to be determined by a hearing, the procedure is set out in the Town and Country Planning (Hearings Procedure) (England) Rules 2000. These procedural instruments are also being amended to reflect the changes being made by these Regulations (See item 07 below).

<http://www.legislation.gov.uk/uksi/2013/2115/contents/made>

06 Statutory Instrument

SI 2013/2136 The Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2013

- This Order comes into force on 01.10.13. It amends the Town and Country Planning (Development Management Procedure) (England) Order 2010.
- It enables certain minor commercial appeals to be considered through the expedited written representations procedure. Those are appeals relating to minor ground floor development to buildings in use for any of the purposes set out in a Schedule that reproduces the uses in Part A of the Schedule to the Town and Country Planning (Use Classes) Order 1987. The Order sets out the time limit for submitting such an appeal and related publicity requirements, and it mirrors the requirements for householder appeals which are already considered through the expedited procedure as set out in Part 1 of the Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009.
- It amends article 33, which sets out the documents that must be submitted with an appeal form. These amendments apply to most appeals under s78 of the Town and Country Planning Act 1990 ("the 1990 Act"), other than householder and minor commercial appeals, but they do not apply in relation to appeals where a national security direction is issued by the Sec of State, nor to urgent Crown development, nor to type A or B appeals (appeals relating to development that is substantially the same as development in respect of which an enforcement notice has been served), nor to appeals relating to major infrastructure projects.
- Applicants will be required to submit a greater amount of information with their appeal forms: their full statement of case; a statement of what procedure they think should be used to consider their appeal; and, where relevant, a draft statement of common ground. These terms are all defined in article 33(7) as amended, and applicants will also have to send copies of these documents to the local planning authority.
- After the appeal is submitted, the Sec of State has the power to determine which procedure will be used to determine the appeal under s319A of the 1990 Act.

<http://www.legislation.gov.uk/uksi/2013/2136/contents/made>

07 Statutory Instrument

SI 2013/2137 The Town and Country Planning (Hearings and Inquiries Procedure) (England) (Amendment) Rules 2013

- These Rules come into force on 01.10.13.
- They amend the procedure for hearings and inquiries held in relation to most appeals made under s78 of the Town and Country Planning Act 1990 ("the Planning Act") and s20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Buildings Act").
- They do not apply where the Sec of State has issued a national security direction, or in relation to urgent Crown development.
- They do not apply in relation to type A or B appeals within the meaning in article 33(7) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 ("the DMPO") (appeals relating to development that is substantially the same as development in respect of which an enforcement notice has been served).
- They also do not apply in relation to any appeal transferred out of Part 1 of the Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009 (expedited written representations procedure).
- The appellant is now required to submit their full case when they make an appeal, and these Rules make a number of changes that follow on from that. The "full statement case" replaces both hearing statements and statements of case so that the terminology is the same for both hearings and inquiries. It also replaces the appellant's outline statement for pre-inquiry meetings in relation to inquiries determined by the Sec of State. The appellant will be required to send their full statement of case to any statutory parties as soon as practicable after they receive the relevant details.
- In relation to inquiries determined by inspectors, and hearings, these Rules change the timings for certain stages in the procedure. The local planning authority will have one week less to notify relevant third parties that an appeal has been made. They will also have one week less to submit their full statement of case, and the parties will have one week less to agree a statement of common ground.
- These Rules also introduce the statement of common ground into the hearings procedure. Inquiries determined by inspectors and hearings will be held sooner where practicable; the date is brought forward by four weeks for such inquiries, and by two weeks for hearings.

<http://www.legislation.gov.uk/ukxi/2013/2137/contents/made>

08 Statutory Instrument

SI 2013/2140 The Town and Country Planning (s62A Applications) (Procedure and Consequential Amendments) Order 2013

- Section 62A of the Town and Country Planning Act 1990 ("the 1990 Act") provides that a local planning authority may be designated by the Sec of State. Where an authority is designated, a person applying for planning permission for major development may choose to submit their application to the Sec of State for determination.
- This Order comes into force on 01.10.13.
- It sets out the procedures in connection with applications under s62A of the 1990 Act. The procedures are modelled on the procedures for planning applications submitted to local planning authorities (set out in the Town and Country Planning (Development Management Procedure) (England) Order 2010).
- This Order is part of a package of provisions in relation to s62A applications: procedures to be followed; the fees to be charged; the rules in relation to hearings; and the provisions which apply where the application is to be determined by way of written representations instead of a hearing.
- This Order implements s1 of, and Schedule 1 to, the Growth and Infrastructure Act 2013.

<http://www.legislation.gov.uk/ukxi/2013/2140/contents/made>



09 Statutory Instrument

SI 2013/2141 The Town and Country Planning (s62A Applications) (Hearings) Rules 2013

- Section 62A of the Town and Country Planning Act 1990 ("the 1990 Act") provides that a local planning authority may be designated by the Sec of State. Where an authority is designated, a person applying for planning permission for major development may choose to submit their application to the Sec of State for determination.
- These Rules regulate the procedure to be followed for hearings in England caused by the Sec of State to be held before he or an inspector determines applications made in relation to planning permission under s62A of the Town and Country Planning Act 1990 on or after 01.10.13.
- These Rules are part of a package of provisions in relation to s62A applications. They come into force on 01.10.13.
- Rule 4 provides for the fixing and notification of the hearing date and of the name of the inspector holding the hearing.
- Rule 5 provides for the publication of a pre-hearing report in relation to the relevant application by the Sec of State.
- Rule 6 provides that hearings must be open to the public.
- Rule 7 provides for the procedure at a hearing.
- Rule 8 makes provision for site inspections.
- Rules 9 and 10 provide, respectively, for the procedure after a hearing in respect of standard applications and recovered applications. They provide for a statement to be written and also that the Sec of State or an inspector may disregard representations received after the close of a hearing.
- These Rules implement s1 of, and Schedule 1 to, the Growth and Infrastructure Act 2013.

<http://www.legislation.gov.uk/uksi/2013/2141/contents/made>

10 Statutory Instrument

SI 2013/2142 The Town and Country Planning (s62A Applications) (Written Representations and Miscellaneous Provisions) Regulations 2013

- Section 62A of the Town and Country Planning Act 1990 ("the 1990 Act") provides that a local planning authority may be designated by the Sec of State. Where an authority is designated, a person applying for planning permission for major development may choose to submit their application to the Sec of State for determination.
- These Regulations prescribe certain matters under s62A and 319A of the 1990 Act and make provision in relation to relevant applications which are to be determined by way of written representations.
- These Regulations are part of a package of provisions in relation to s62A applications and come into force on 01.10.13.
- They set out the provisions which apply where the application is to be determined by way of written representations instead of a hearing.
- They implement s1 of, and Schedule 1 to, the Growth and Infrastructure Act 2013.

<http://www.legislation.gov.uk/uksi/2013/2142/contents/made>

11 Statutory Instrument

SI 2013/2143 The Growth and Infrastructure Act 2013 (Commencement No. 4) Order 2013

- This Order brings into force on 01.10.13 s1 of, and Schedule 1 to, the Growth and Infrastructure Act 2013 ("the Act"), insofar as it is not already in force, except in relation to connected applications; s1 of the Act inserts new provisions, ss62A and 62B, into the Town and Country Planning Act 1990. Those sections provide for the designation of local planning authorities in accordance with criteria set by the Sec of State. Where a local planning authority is designated, a person wishing to apply for planning permission in the area of that authority may choose to apply to the authority as usual or, instead, apply to the Sec of State. Schedule 1 to the Act makes consequential provisions.
- It also brings into force on 01.10.13 s2 of the Act insofar as it is not already in force. This is concerned with amendments to the Sec of State's powers to recover costs and to make rules and regulations in respect of costs.
- It also brings into force on the same date s28 of the Act, which amends the Greater London Authority Act 1999, to allow the Mayor of London to delegate certain planning functions to a member of his staff appointed under s67(1) of that Act.

<http://www.legislation.gov.uk/uksi/2013/2143/contents/made>

12 Statutory Instrument

SI 2013/2153 The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2013

- W.e.f. 01.10.13 these Regulations amend the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 ("the 2012 Regulations").
- Regulations 2 and 3 make amendments for fees in relation to applications for planning permission and for approval of reserved matters under s62A of the Town and Country Planning Act 1990 ("the 1990 Act").
- Regulation 4 inserts a new Regulation 5A into the 2012 Regulations which provides that there is no fee for submitting an application for planning permission in respect of the demolition of certain buildings in a conservation area.
- Regulation 5 inserts a new Regulation 9A into the 2012 Regulations which provides that any fee paid by an applicant in respect of an application for planning permission or for the approval of reserved matters is to be refunded where the local planning authority (or the Sec of State in relation to an application made under s62A of the 1990 Act) fails to determine the application within 26 weeks of the date when a valid application was received. A refund will not be payable, however, where the applicant and the authority (or the Sec of State) have entered into an agreement to extend the time for determination of the application.
- Regulation 6 amends Regulation 14 of the 2012 Regulations to provide that the fee for an application for prior approval under Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 relating to development which involves the making of any material change in the use of any buildings or other land is £80. It also provides that there is no fee for a prior approval application where a planning application for the same site is submitted at the same time by or on behalf of the same person.

<http://www.legislation.gov.uk/uksi/2013/2153/contents/made>

13 Statutory Instrument

SI 2201/2013 The Town and Country Planning (Public Path Orders) (Amendment) (England) Regulations 2013

- W.e.f 01.10.13 these Regulations amend the 1993 Regulations in relation to England, following the enactment of s257(1A) of the Town and Country Planning Act 1990 ("the 1990 Act") by s12 of the Growth and Infrastructure Act 2013. s257(1)(a) of the 1990 Act permitting competent authorities to make orders authorising the stopping up or diversion of a footpath, bridleway or restricted byway if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted under either Part 3 or s293A of the 1990 Act.
- Section 257(1A) now permits competent authorities to stop up or divert a footpath, bridleway or restricted byway where they are satisfied that it would be necessary do so in order to enable development to be carried out in accordance with planning permission for which an application has been made under Part 3 of the 1990 Act, were that application to be granted.

<http://www.legislation.gov.uk/uksi/2013/2201/contents/made>

14 CLG Publication

Notes on neighbourhood planning: edition 6

This is the latest bulletin from the Government's neighbourhood planning team on the latest news and policy developments. Planning practice guidance is now available on-line and these notes contain the link to the new neighbourhood planning homepage.

<https://www.gov.uk/government/publications/notes-on-neighbourhood-planning-edition-6>

15 CLG Consultation

**Revised requirements relating to planning applications for onshore oil and gas
Deadline for Comments: 14.10.13**

On 19.07.13 the Government published planning practice guidance for onshore oil and gas with the intention of providing clarity on the role of the planning system in taking forward applications for oil and gas development, including the important exploratory stage of extraction. This consultation sets out proposals for possible changes to existing secondary legislation in relation to application requirements and fees for onshore oil and gas development.

<https://www.gov.uk/government/consultations/revised-requirements-relating-to-planning-applications-for-onshore-oil-and-gas>



16 CLG Guidance

Planning Act 2008: procedures for the compulsory acquisition of land

This guidance aims to assist those intending to make an application for a development consent order under the Planning Act 2008 where their application seeks authorisation for the compulsory acquisition of land or rights over land. It seeks to help applicants understand the powers contained in the Act and how they can be used to best effect.

<https://www.gov.uk/government/publications/planning-act-2008-procedures-for-the-compulsory-acquisition-of-land>

17 CLG Summary of responses to consultation

Technical review of planning appeal procedures: consultation – summary of responses

The Government recently consulted on a set of proposals to make the planning appeals process faster and more transparent, and to improve consistency and certainty in decision-taking timescales. This summary outlines the consultation responses received and the Government's response to these.

<https://www.gov.uk/government/consultations/technical-review-of-planning-appeal-procedures>

RATING

18 Upper Tribunal Lands Chamber

Rating of new warehouse buildings – limited facilities – whether units constituted rateable hereditaments to be entered in rating list

*AVIVA INVESTORS PROPERTY DEVELOPMENT LTD V WHITBY (VO) (2013) PLSCS 215 – Decision given 04.09.13

Facts: AIPD owned four warehouse units which had been built speculatively in Reading and Milton Keynes. Before completion notices had been served by the billing authorities, the VO entered each of the units in the 2005 rating lists for the relevant councils and these entries were subsequently upheld by the valuation tribunal who found that they satisfied the requirements for inclusion in the lists. At that time the units had reached practical completion but had no small power distribution, only limited lighting in warehouse areas and no partitioning of office space. One of the units had not yet been connected to the gas supply.

Point of dispute: Whether AIPD's appeals against the warehouses being entered in the 2005 rating lists would be allowed. Under paragraph 1(1) of Schedule 4A of the Local Government Finance Act 1988, the local authority was required to serve a completion notice on the owner of a new building specifying a completion day for it. Where the completion notice procedure had been followed, the effect of s46A of the 1988 Act was that the new building was deemed to have been completed on the date specified in the notice, however, in AIPD's cases the billing authorities had not served completion notices at the time that the warehouse units had reached practical completion.

Held: The appeals were allowed. Where a billing authority failed to send a completion notice and a building remained unoccupied, it was a question of fact whether the building was completed to the point at which it had become a hereditament capable of being included in the rating list. A building was only a hereditament once it was ready for occupation for the purpose for which it was designed to be occupied. There was no scope for including in the list a building that was almost ready for occupation unless the completion notice procedure had been followed. In these cases additional lighting and power supplies to the warehouse areas were needed before they could be used, and the unit which lacked a gas supply needed to be connected to it to ensure a supply of hot water.

19 CLG Guidance

Business rates new build empty property: guidance

This guidance has been published to support local authorities in administering the business rates new build empty property relief scheme setting out the detailed criteria in which central government will fund additional relief for newly built commercial property if it does not become fully occupied straight away.

<https://www.gov.uk/government/publications/business-rates-new-build-empty-property>

HOUSING

20 Homes & Communities Agency Bulletin

HCA Monthly Housing Market Bulletin, 29 August 2013

The Housing Market Bulletin provides the latest information on the housing market, the economy and the housebuilding industry. It includes updates on house price changes from top house price indices, housing market forecasts, housing starts and completions, as reported by the Department for Communities and Local Government, mortgage trends and overall economy information and area housing market reports.

- Average house price inflation is increasing, particularly in London. According to the Office of National Statistics average UK house prices in the year to June 2013 increased by 3.1% – if London is excluded the increase is 1.5% overall.
- According to HMRC, there were 5% more transactions in the year to July 2013 than in the previous year. The seasonally adjusted trend is of steady growth in the market.
- Lending to first time buyers was £3.5bn, 40% higher than in June 2012, and accounted for 45.7% of all loans for house purchases.
- Unemployment levels remain stable at around 2.5 million.
- UK GDP growth accelerated to 0.7% in the second quarter of 2013.
- Inflation was running at 2.8% in the year to July 2013.

<http://www.homesandcommunities.co.uk/ourwork/market-context>

21 Royal Town Planning Institute (RTPI) Report

Delivering Large Scale Housing: Unlocking Schemes and Sites to Help Meet the UK's Housing Needs, September 2013

This report outlines 15 key measures which the RTPI considers are necessary to boost house building. It highlights how new homes could be built in places where they are most needed by unlocking existing large scale housing schemes and potential sites across England and Scotland. The recommendations fall under five main headings:

- Community engagement;
- Land;
- Infrastructure;
- Finance; and
- Leadership and Governance.

<http://www.rtpi.org.uk/briefing-room/news-releases/2013/september/report-sets-out-blue-print-to-help-build-thousands-of-new-homes/>

22 London Councils Discussion Paper

The London Housing Challenge – A London Councils Discussion Paper

This new analysis by London Councils, which represents 33 local authorities, argues that London will have a deficit of 559,000 homes by 2021 unless steps are taken to prevent this happening – such as lifting restrictions on councils borrowing against their assets. The research reveals that:

- between 2011 and 2021, 526,000 new homes need to be built in London just to keep up with new housing demand (London's population is expected to increase by over one million in the next decade);
- only 250,000 homes will be built on current projections;
- a further 283,000 homes also need to be built along with the 526,000 to meet both new demand and the backlog of housing need in London; and
- in total, 809,000 homes are needed by 2021 to meet new housing need as well as the backlog of housing need.

<http://www.londoncouncils.gov.uk/news/current/pressdetail.htm?pk=1661>



CONSTRUCTION

23 A brief overview of changes to Building Regulations

Changes to Building Regulations for England – Part L from 06.04.14

According to the Government's latest announcement, the updates to Part L that were originally planned for October 2013 will now come into force on 06.04.14. There is still only limited information on the changes – that which is available is summarised briefly below:

- New build homes will have to be an average of 6% more energy efficient than under the 2010 regulations;
- Non-domestic buildings will have to be 9% more energy efficient than under the 2010 regulations;
- The Government predicts the changes will help lower fuel bills and deliver savings of £16m per year for businesses; and
- A new fabric energy efficiency target is to be introduced. Details of this, how the improvements will be calculated and targets for different building types are yet to be published.

The following proposals are not going to be implemented:

- The proposal to introduce a universal building specification known as the Publicly Available System; and
- Plans to introduce consequential improvements for extensions.

Scotland and Wales

- Ministers in Scotland are considering reducing emission rates by 21% for the new s6 regulations when it is updated next year.
- The Welsh Assembly has confirmed an 8% reduction over current targets.

24 CLG Statistical Release

Code for Sustainable Homes and Energy Performance of Buildings: Cumulative and Quarterly Data for England, Wales and Northern Ireland up to end of June 2013

This release contains the latest official statistics on the code for sustainable homes and average energy efficiency (SAP ratings) for homes in England, Wales and Northern Ireland. Statistics in this release relating to the code for sustainable homes show the number of dwellings that have been certified to the standards set out in the "Code for sustainable homes: technical guidance", in which local authority area, at which Code level and whether the homes are registered as private or public sector homes. Code certificates are issued at two stages, the design stage and post construction stage. The Code takes a whole house approach and measures the sustainability of a dwelling against nine different categories: energy/carbon, water, waste, materials, surface water run-off, and health and well-being, which have mandatory performance standards, and pollution, ecology and management.

<https://www.gov.uk/government/publications/code-for-sustainable-homes-and-energy-performance-of-buildings-data-june-2013>

GENERAL

25 Department for Environment Food & Rural Affairs (Defra) Consultation

Biodiversity Offsetting in England – Green Paper Deadline for Comments: 07.11.13

The Government is faced with two challenges: growing England's economy and improving its natural environment. Offsetting is a measurable way to ensure that any residual damage caused by development which cannot be avoided or mitigated is made good, while for developers it can offer a simpler and faster way through the planning system. This consultation sets out options for an offsetting scheme tailored for England, its habitats and species and the Government's preference for giving developers the choice to use offsetting. The paper:

- explains what biodiversity offsetting is;
- sets out the Government's objectives to avoid additional costs to developers and achieve better environmental outcomes and explores how offsetting could help achieve these objectives;
- sets out the options for biodiversity offsetting and the Government's preference to give developers the choice to use offsetting;
- seeks evidence to improve the Government's understanding of the costs and benefits of biodiversity offsetting compared with existing approaches; and
- considers how the detailed design of an offsetting system should be approached.

https://consult.defra.gov.uk/biodiversity/biodiversity_offsetting

26 Department for Environment, Food & Rural Affairs Bulletin

Quarterly Rural Economic Bulletin – September 2013

This bulletin presents a range of statistics which provide evidence of the effects of the economic downturn in rural areas. The five indicators that are used are:

- claimant count – proportion of working age population claiming unemployment benefits;
- economic activity – proportion of economically active population unemployed and proportion of working age population in employment;
- redundancies – number of redundancies per 1,000 workers;
- house prices – average house prices and annual per cent change; and
- business insolvencies – rate of businesses becoming insolvent per 1,000 businesses.

<https://www.gov.uk/government/publications/quarterly-rural-economic-bulletin>

27 Department for Environment, Food & Rural Affairs Statistics

Statistical Digest of Rural England 2013 – September 2013

This Digest is a collection of statistics on a range of social and economic subject areas. The statistics are split by rural and urban areas, allowing for comparisons. A section on urban and rural populations is followed by a range of subjects including social issues such as housing, broadband, crime and education. The economic section contains indicators on productivity, earnings and economic activity, as well as a selection of indicators relating to economic growth. The section on rural education is updated in this edition.

<https://www.gov.uk/government/publications/statistical-digest-of-rural-england-2013>

28 Department for Environment, Food & Rural Affairs Statistics

Rural population and migration

This publication contains up-to-date population and migration statistics for rural and urban areas. Internal migration estimates show that people are moving away from urban areas to rural areas.

<https://www.gov.uk/government/publications/rural-population-and-migration>

29 The Building and Social Housing Foundation (BSHF) Report

Creating the Conditions for New Settlements in England

In May 2013 BSHF held a consultation to assess the potential for delivering new settlements in the UK. A group of experts representing government, academia, industry, landowners, developers and local communities sought practical solutions to the current housing crisis facing Britain. This report and its twelve recommendations are based on the discussions held during the consultation.

<http://www.bshf.org/published-information/publication.cfm?lang=00&thePubID=DA16820B-D4AE-52C7-70495EE78A4F3D3C>

30 Policy Exchange Report

21st Century Retail Policy: Quality, choice, experience and convenience

This report discusses the success, or otherwise, of policies that were intended to revive Britain's struggling high streets. The report argues that Town Centre First, a policy which was introduced in the 1990s to support the high street by limiting out-of-town shopping centres, has actually decreased competition between retailers and damaged the social fabric of communities, especially outside the south east. Discriminating against out-of-town centres has put up prices and led to productivity losses while the internet has been a key factor in the decline in many high streets.

The report recommends:

- Replacing Town Centre First with an Access First policy which would focus on giving low income households access to social and retail hubs, but not restricting where these centres should be built;
- Well run councils or high streets should be left to their own devices;
- Local councils who preside over failing high streets should have their powers transferred to management companies staffed by people with retail experience replicating the way that large out-of-town outlets are run; and
- Small and badly located high streets which have little chance of competing with the internet or other retail destinations should be transformed into housing or offices.

<http://www.policyexchange.org.uk/publications/category/item/21st-century-retail-policy-quality-choice-experience-and-convenience>



31 Highways Agency Press Release

Supporting Economic Development near motorways and major 'A' roads

The new Transport Policy The Strategic Road Network and the Delivery of Sustainable Development places greater emphasis on the Highways Agency's role in promoting economic growth and enabling development. The Department for Transport has recently published new rules which will make it easier to obtain planning permission for large scale developments adjacent to motorways and large A roads. The changes include the following:

- Restrictions are to be eased on providing new access roads and junctions for motorways which will make it easier for local authorities and developers to take forward large scale development projects;
- The need for developers to pay for mitigation measures will be removed unless the impacts of their proposals are severe;
- A commitment to support the delivery of developments that have been approved in a Local Plan;
- Simplifying the mandatory requirements that must be provided at every service area and roadside facility; and
- Devolving decisions on the minimum spacing for service areas to the planning system; it is hoped that this creates the potential for new sites and encourage competition.

<http://www.highways.gov.uk/news/press-releases/supporting-economic-development-near-motorways-and-major-a-roads/>

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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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01 Planning

SCOTLAND

PLANNING

01 Scottish Assembly Government Guidance

Strategic Environmental Assessment (SEA) Guidance

This document provides guidance on the SEA process in Scotland. It sets out advice on each stage of the process and highlights areas where it could be made more efficient and effective.

<http://www.scotland.gov.uk/Publications/2013/08/3355>

02 Planning Advice Note

Planning Advice Note 1/2013: Environmental Impact Assessment

This new guidance replaces PAN 58 and contains advice on the integration of EIA procedures into the overall development management process. The aim of this note is to replace the outdated PAN and bring EIA guidance fully into line with the latest regulations.

<http://www.scotland.gov.uk/Publications/2013/08/6471>



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03 Scottish Assembly Government – Consultation Responses

National Planning Framework 3 – Main Issues Report and Draft Framework Consultation Responses

This document contains the consultation responses on the Scottish Government's proposed approach to Scotland's long term spatial development.

<http://www.scotland.gov.uk/Publications/2013/08/7893>

04 Scottish Assembly Government – Consultation Responses

Scottish Planning Policy (SPP) Consultation Responses

A review of the SPP was announced by the Scottish Government in September 2012 and these are the responses to the consultation draft.

<http://www.scotland.gov.uk/Publications/2013/08/1205>