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Volume 30(07) 02 June 2008

# evebrief

## Editorial



Steve Hile

The last few weeks have clearly been quite distracting for the Government. As whilst they have rewritten the budget and prevaricated over further changes to it in the coming months they appear to have done little else. In itself many would say that less Government regulation is a good thing but the focus is obviously lacking at the moment.

However, we report on a number of cases from the Lands Tribunal, the Administrative Court and one from the Leasehold Valuation Tribunal. The latter, amongst other issues, confirmed the Lands Tribunal decision of *Earl Cadogan v Sportelli (2007)* which we reported on last year that the deferment rate applied should be 5% unless there were justified circumstances to depart from this. At item 13 we report on a Lands Tribunal decision concerning the modification of a restrictive covenant where the appellant's proposals were held to be 'out of character with the estate'. In contrast, at item 8 we report the findings of a survey by the Campaign for the Protection of Rural England. The significant number of homes built on over 12,000 hectares of Green Belt land since 1997 which should surely be considered 'out of character' with the locality.

Finally at item 12 we report on a decision of the Court of Appeal concerning a right of way. The main issue here was not the existence of the right of way but what evidence it was reasonable for a Court to consider in interpreting the way in which it could be used. It was held that the wording of the original restrictive covenant itself was all that was required.

**Steve Hile**

# Landlord & Tenant

## 01

High Court

### **Basis of valuation for rent review of pub subject to a beer tie**

\* DODDS V WEST REGISTER (PUBLIC HOUSES III) LTD  
(2008) PLSCS 151 — Decision given 19.05.08

**Facts:** D was the tenant and WR the landlord of a tied public house under a lease containing an upward-only rent review mechanism and a beer tie. The parties were unable to agree the reviewed rent from September 2005 and an arbitrator was appointed to determine the rent. The arbitrator accepted that the tenant of a tied house should not be in a worse position than one who was not so tied but concluded that D's actual trading accounts were inadmissible. He determined the rent payable as being £65,000 pa.

**Point of dispute:** Whether D's appeal against the arbitrator's award should be allowed. It was accepted that the arbitrator had adopted the correct "profit assessment" method of valuation for licensed premises; however D contended that the arbitrator had failed to take into account the effect that the beer tie would have upon him and in determining the rent had failed to apply his stated principle that a tied tenant should not be any worse off than one who was not tied. D argued that it was necessary to take account of the price differential between the wholesale prices with "open market discounts" available to free of tie tenants and those imposed by the beer tie when the profit method of assessment was applied.

**Held:** D's appeal was allowed and the matter would be remitted to the arbitrator. There was a close relationship between the price differential and the open market rent which had to be reflected in the valuation of the open market rent on a rent review. The arbitrator's failure to take account of open market discounts was a serious irregularity and had caused injustice to D.

## 02

Lands Tribunal

### **Disputed service charges**

\* WITNESHAM VENTURES LTD V MARKWICK  
(2008) PLSCS 139 — Decision given 24.04.08

**Facts:** M applied to the leasehold valuation tribunal (LVT) for a determination under s27A of the Landlord and Tenant Act 1985 of the service charge payable to WV, her landlord, in respect of her flat for 1999 to 2005. The LVT inspected the premises and gave directions for the preparation of revised Scott Schedules setting out the parties' contentions on items remaining in dispute. At the resumed hearing the parties did not call any evidence and agreed that the LVT should determine the disputed items on the basis of the Scott Schedules to a total value of £214,540. The LVT gave a preliminary determination with a view to the parties agreeing the terms of a consent order, but no agreement was reached and in its final decision the LVT stated that it had reviewed each outstanding item on the Scott Schedules and that with regard to all the service charge items it was satisfied that the items were reasonable and had been reasonably incurred.

**Point of dispute:** Whether WV's appeal should be allowed against the LVT's decision. WV argued that the LVT had failed to give adequate reasons for its decision. M accepted that, but contended that the the LVT should determine the disputed items against the party upon which the burden of proof lay, on the basis that that party had failed to discharge the burden in the absence of any evidence.

**Held:** WV's appeal was allowed. The LVT could not determine the case on the basis of the contents of the Scott Schedules and by applying the burden of proof as that would not deal with the cases in a just manner. There was much scope for disagreement as to where the burden of proof lay in respect of many of the disputed items. The remaining disputed items would be remitted to a differently constituted LVT for a decision.

# Planning

## 03

Administrative Court

### Enforcement notice

\* HARINGEY LONDON BOROUGH COUNCIL V SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT (2008) PLSCS 140 — Decision given 08.05.08

**Facts:** A community centre occupied three units within a defined employment area industrial location (DEA) in the relevant unitary development plan for the area. HLBC issued an enforcement notice against the community centre alleging a breach of planning control, claiming that the use of one of the units had changed from an industrial unit to a place of worship without planning permission. An inspector appointed by the Sec of State allowed the community centre's appeal against the notice on the grounds that material considerations justified a departure from the UDP policy on activities carried out within DEAs. He concluded that nothing had been put before him to indicate that the educational use of two of the units was unauthorised. He quashed the enforcement notice and granted planning permission to permit the community centre to use the third unit as a place of worship.

**Point of dispute:** Whether HLBC's appeal should be allowed against the inspector's decision on the basis that he had approached the appeal on a manifestly unfair basis. HLBC contended that the inspector had no evidence before him to enable him to assume that educational use of two of the units was authorised and, secondly, they had had no opportunity to make representations on the issue of lawfulness of the use of those units.

**Held:** HLBC's appeal was allowed. The inspector had made a material error of fact in finding that material considerations warranted a departure from the UDP and in granting permission for one of the units to be used as a place of worship. It was wrong for him to say that he had no evidence to support the contention that the educational use of two of the units was unauthorised. The appeal notice only related to the unit being used for worship and there was no evidence before the inspector regarding the lawfulness of the use of the other two units. That was a new point raised by the inspector and should have been put to HLBC.

## 04

Administrative Court

### Economic viability of affordable housing

\* PERSIMMON HOMES (NORTH EAST) LTD V BLYTH BOROUGH COUNCIL (2008) PLSCS 152 — Decision given 20.05.08

**Facts:** PH were involved in the development of housing in BBC's area. Under s19 of the Planning and Compulsory Purchase Act 2004 a local planning authority had to have regard to national policies and advice when preparing local development documents and under s20(1) every development document had to be submitted to the Sec of State's inspector for independent examination prior to its adoption and the results of this were binding on the local authority. A housing need study (HNS) conducted on behalf of BBC in 2004 concluded that 83% of housing on new development sites in BBC's area should be affordable housing, but that figure was deemed by BBC to be unrealistic and a 40% target was fixed. Following the issue of PPS 3 in November 2006, which stated that "economic viability" had to be taken into account in setting affordable housing targets the figure was revised again down to 30%. The inspector appointed by the Sec of State to examine BBC's proposed plan concluded that the proposed affordable housing policy of 30% satisfied the statutory requirements of s19 and s20 on the basis of the need identified in the HNS and was not affected by PPS 3.

**Point of dispute:** Whether PHs application to quash policy H4 of BBC's core strategy development plan document should be allowed. This policy provided that a target of 30% affordable housing would be sought on new housing developments providing ten or more dwellings. PH argued that the inspector's report was unlawful as it failed to take account of economic viability as required by PPS 3.

**Held:** PH's application was granted — Policy H4 would be quashed as it failed to satisfy the requirements of s19 of the 2004 Act. PPS 3 was introduced before the inspector had completed his examination and he could have stated that each planning application should include as high a percentage of affordable housing as possible and that proportion would be given due consideration. Alternatively, the independent examination could have been adjourned until new evidence was available with a view to obtaining a target for the borough that was economically viable. By setting a 30% target the inspector had failed to consider the material factor of economic viability.

## 05

Administrative Court

### **Council seeking to remove gypsy caravans from site by direct action – whether council used appropriate relief – race equality**

\* R (ON THE APPLICATION OF MCCARTHY) V BASILDON DISTRICT COUNCIL  
(2008) PLSCS 141 – Decision given 09.05.08

**Facts:** A group of Irish travellers lived in caravans on unauthorised green belt sites in BDC's district. BDC, having served enforcement notices, sought to enforce compliance by removing the hardstanding in order to restore the land to its natural state. Its authority for taking this action was s178 of the Town and Country Planning Act 1990 which empowers a local planning authority, where steps required by an enforcement notice have not been taken within the compliance period, to enter onto the land in question and to take those steps themselves.

**Point of dispute:** Whether M's application for judicial review of BDC's decision should be allowed. M contended that the council's use of s178, as opposed to injunctive relief under s187B, was inappropriate since the effect of it would be to evict the claimants from their residences – s187B would have given the court a discretion that was not available under s178. The Equality and Human Rights Commission (ERHC) was given leave to intervene because the case gave rise to the issue of the obligation to have due regard to race equality under s71(1) of the Race Relations Act 1976 as amended.

**Held:** M's application for judicial review was allowed. In principle it was not disproportionate to use s178 rather than s187B as the judicial review remedy gave adequate protection. However, the court found that consideration should have been given to whether alternative sites could be found and whether some families could remain in the short term. The injunction had to be appropriate and necessary in the public interest, but also not impose too excessive a burden on the individual whose private rights were at risk. The approach in this case had been too restrictive. However, BDC's failure to refer to the race equality duty did not render its decision unlawful – the decision maker had to have had regard to the relevant statutory duty, but it was impossible to conclude in this case that BDC had only paid lip service to that duty.

## 06

Administrative Court

### **Whether planning inspector correct to refuse permission for redevelopment of estate for elderly people – Human Rights Act 1998, Sch 1, Pt 1, Art 8**

\* ATLANTIC HOUSING LTD V SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT  
(208) All ER (D) 198 (May) – Decision given 15.05.08

**Facts:** AH, which owned an estate in Hampshire providing accommodation for elderly people, applied for planning permission to redevelop it. It intended to demolish some of the bungalows and to construct a block of 32 flats and 24 new bungalows. Both AH and Help the Aged conducted consultations but the latter's indicated that AH's consultation had not been satisfactory and failed to deal appropriately with existing residents. The inspector appointed by the Sec of State refused to grant permission as he considered there was insufficient evidence to find that the existing residents' rights to private and family life would be safeguarded. AH's aims had been legitimate and necessary, but its planning applications had not been proportionate.

**Point of dispute:** Whether AH's application would be allowed to quash the inspector's decision not to grant planning permission for the proposed redevelopment.

**Held:** AH's application was allowed and the inspector's decision to refuse planning permission would be quashed. The inspector's decision could not stand. In finding that AH's plan to redevelop its estate was legitimate and necessary he had erred in finding that it was not proportionate, but AH had also been at fault for failing to supply the inspector with all the relevant material on which to base his decision. AH's applications would be remitted for reconsideration.

## 07

CABE Guide

### **Creating successful masterplans – A guide for clients**

CABE first published "*Creating successful masterplans*" in 2004 to provide a guide for clients through the complex task of masterplanning: defining what a masterplan is and how to prepare, design and deliver high-quality places. The guide draws on CABE's experience of supporting public sector clients on major projects across the country, its aim being to act as a practical tool to be used on real projects. "*Creating successful masterplans*" will be fully updated in 2008/09, but in the meantime this reprinted edition contains advice on process, updates on planning policy and contacts. A masterplan addresses the various aspects which make places successful, including:

- the quality of buildings and spaces and their management;
- bringing these together to create unique spaces;
- historical, cultural and landscape considerations;
- service provision;
- the engagement of local people;
- economic and financial matters; and
- the role of different agencies in delivering investment and change.

<http://www.cabe.org.uk/AssetLibrary/4027.pdf>

## 08

Campaign to Protect Rural England (CPRE) Briefing

### **Green Belts – Robustly Protected or Under Threat?**

In this report the CPRE concludes that the last ten years have seen significant losses to the Green Belt and that there needs to be an urgent review of current threats to the Green Belt in order to avoid further losses. Its investigation has found that:

- over 1,100 hectares of Green Belt have been lost each year since 1997 and at least 45,240 homes have been built on Green Belt land since 1997;
- at present, London's Green Belt boundaries are being reviewed in 18 separate locations with a view to accommodating new housing development;
- Government Planning Inspectors are undermining the Government's claim to be upholding Green Belt policy in almost every region, with statements suggesting that the Green Belt should not be treated as permanent and that demand for housing and air travel justify major changes to Green Belt boundaries; and
- two eco-town proposals could lead to further losses of Green Belt land.

<http://www.cpre.org.uk/news/view/491>

## 09

CLG Good Practice Guide

### **Designing Gypsy and Traveller Sites**

Paragraphs 12-19 of *PPS3: Housing* stress the importance of good design in developing high quality new housing and identify the key issues that need to be addressed in order to achieve it. Paragraphs 20-24 identify the key characteristics of a mixed community making it clear that this can only be secured by achieving a good mix of housing, including accommodation for Gypsies and Travellers. The guidance in this document concentrates on these issues in the context of Gypsy and Traveller site provision in order to familiarise developers with the elements that are necessary to design a successful site. Case study examples are used to illustrate good practice.

<http://www.communities.gov.uk/documents/housing/pdf/designinggypsysites.pdf>

# Rating

10

CLG Statistical Release

## National Non-Domestic Rates to be collected by local authorities in England 2008/09

This release provides information on national non-domestic rates and associated information for the financial year 2008-09, and changes over previous years. This information is derived from national non-domestic rates (NNDR1) returns submitted by all 354 billing authorities in England.

- the contribution to the pool from the local lists is expected to grow by 5.6% to £19bn in 2008-09
- between 2004-05 and 2008-09 the contribution to the pool from the local lists increased by 29%
- London accounts for 26% of the contribution to the national pool while having only 15% of the population
- billing authorities estimate that in 2008-09 they will pay out £87m more in small business rate relief supplement. Since the introduction of the Small Business Rate relief scheme, it is estimated that the total amount paid out in relief will exceed that raised by the Small Business Rate relief scheme supplement by £20m

<http://www.local.communities.gov.uk/finance/ctax/data/ndr089release.pdf>

# Leasehold Reform

11

## Collective enfranchisement of block of flats – right to acquire additional land – departure from Sportelli deferment rate of 5%

\* DAEJAN INVESTMENTS LTD V THE HOLT (FREEHOLD) LTD  
(2008) PLSCS 146 — Decision given 02.05.08

**Facts:** TH was the nominee purchaser for the qualifying tenants who wished to purchase the freehold of a block of flats. It applied to the leasehold valuation tribunal (LVT) for a determination of the terms of the acquisition that remained in dispute between the parties, including whether some additional land should be included in the purchase and its price. The LVT determined that the additional land should be included with the property to be acquired, but that it had no value in the market place and made a nominal valuation of £1. Both parties had previously agreed that if the tenants were in fact entitled to acquire the additional land its value was £14,000. Regarding the price to be paid for the block the LVT applied a deferment rate of 7.5% and found that the purchase price was £285,246.

**Point of dispute:** Whether the LVT had jurisdiction to make its own valuation of the additional land given that the parties had agreed a price for it, and whether, in the light of the decision of the Lands Tribunal in *Earl Cadogan v Sportelli (2007) 1 EGLR 153* the LVT should have applied a deferment rate of 5%. TH also submitted that this appeal should be treated as an appeal by review only since the freeholder had not stated it in its application for permission to appeal that a rehearing was sought — this would mean that no valuation evidence could be called and the tribunal could not interfere with the deferment rate decided on by the LVT.

**Held:** The freeholder's appeal was allowed in part.

- (i) The appeal was not restricted to a review. The freeholder's application for permission to appeal had expressly stated that it intended to call expert evidence and the President of the Lands Tribunal, when granting permission, had clearly contemplated that the *Sportelli* point would be available to the freeholder on the appeal.
- (ii) The LVT, having decided that additional land was to be included in the purchase had jurisdiction to determine the price to be paid for it. The freeholder had expressly stated in its counternotice that it did not accept TH's proposal regarding the purchase price for the additional land. That wording could not be ignored, notwithstanding the fact that in a subsequent paragraph it appeared to agree to a £14,000 purchase price should the LVT decide that the additional land was to be acquired. Therefore, on the face of TH's notice and the freeholder's counternotice, there appeared to be a dispute regarding the additional land which TH was entitled to treat as a dispute regarding all aspects of it, including its price.
- (iii) The Lands Tribunal should not overturn a conclusion of the LVT on a given point unless it was certain that the LVT's conclusion on a given point was clearly wrong. It did not automatically follow from the decision in *Sportelli* that a deferment rate higher than 5% must be wrong. If circumstances justified a departure from the *Sportelli* rate the tribunal had to consider the appropriate rate to be applied; however, in this case the appropriate deferment rate was the generic 5% rate for flats as laid down in *Sportelli*.

## Real Property

### 12

Court of Appeal

#### **Extent of right of way**

\*\* BROOKS V YOUNG

(2008) PLSCS 153 — Decision given 22.05.08

**Facts:** The appellant, and respondent owned adjoining terraced properties which they had previously occupied as tenants but had purchased from the local authority under the right-to-buy legislation. The sale to the appellant included a right of way along the side and across the rear of the respondent's end of terrace property "at all times" for access to and egress from the rear of the appellant's house "for all proper purposes connected with the reasonable enjoyment of the property", and the later sale of the respondent's house was expressly subject to that right. The respondent claimed that the appellant's use of the right of way was excessive and that it should be limited to purposes that could not reasonably be accommodated by the front door, such as putting out bins.

**Point of dispute:** Whether the appellant's appeal should be allowed against the finding of the county court judge that the right of way should only be exercised in circumstances where it was not practical to use his front door. In arriving at that conclusion the judge took into account a letter from the local authority, written five months after the sale to the appellants, which indicated what the authority considered to be a reasonable use of the right of way. The appellant argued that the judge had taken into account inadmissible material for the purposes of interpreting the grant and had placed a restrictive interpretation on it.

**Held:** The appeal was allowed. The court's role was to interpret the right of way that had been granted by ascertaining the parties' intentions from the words that had been used. The local authority's letter was inadmissible as evidence either as to the intentions of either party regarding the grant, or as to what the right as granted actually meant. There were no grounds for interpreting the right of way as being restricted to occasions when it was not reasonably practical to use the front door — it could be used "at all times" and "for all purposes" in connection with normal residential use of the property. If the right was intended to be more restrictive the grant would not have been worded in such wide terms.

# 13

Lands Tribunal

## Modification of restrictive covenant

\* RE CORDWELLS' APPLICATION  
(2008) PLSCS 150 — Decision given 07.05.08

**Facts:** C lived in a 1960's house that had been constructed as part of a building scheme and was subject to a restrictive covenant not to construct more than one bungalow or dwelling house on their property. The covenant benefited various neighbouring properties which also formed part of the scheme. C obtained planning permission to partially demolish their existing bungalow and to construct another one and applied to the Lands Tribunal under s84(1)aa of the Law of Property Act 1925 to modify the restrictive covenant on the grounds that the restriction impeded a reasonable proposed user and did not secure any practical beneficial advantage of substantial value to anyone who benefited from the covenant, who could be adequately financially compensated.

**Point of dispute:** Whether C's application would be allowed. The neighbours with the benefit of the covenant objected as they had concerns about the effect that the proposed new bungalow would have on them in terms of noise, visual amenity and overlooking and they argued that the covenant secured practical benefits of substantial value to them by maintaining the integrity of the building scheme and preserving the original character of the estate. C contended that benefits such as the existing street scene and the character of the estate were adequately protected by the planning regime and that the existence of a building scheme did not give rise to a greater presumption that the restriction should continue in full force.

**Held:** C's application was refused. Restrictive covenants and planning were distinct and separate systems of control. The restriction, by impeding the development of the bungalow, still secured practical benefits of substantial advantage to a number of the objectors and that was sufficient grounds for refusing the application. The existence of a building scheme was a material factor which the tribunal should attribute weight. C's proposals were out of character with the estate and would make that corner of it appear cramped.

## Housing

# 14

CLG Statistical Release

## House Price Index — March 2008

- house price figures for February and March 2008 have been revised from those published last month due to the receipt of new data from lenders who provide information quarterly rather than monthly
- the mix-adjusted average house price in the UK stood at £217,344 in March 2008, up from £217,089 in February 2008 (not seasonally adjusted)
- UK house prices grew by 5.2% in the year to March 2008, down from 6.3% in February. Annual house price growth was 7.6% in London in the year to March, down from 9.2% in February
- annual house price growth was highest in Scotland (+9.3%) and lowest in Northern Ireland (-1.2%). In Wales house prices went up by 4.1% and they rose 5.2% in England
- UK house prices fell by 0.1% in the quarter ending March 2008 which compares with a decline of 1% for the quarter ending December 2007

<http://www.communities.gov.uk/documents/housing/pdf/798659.pdf>

# Energy

15

CLG Publication

## **A guide to Display Energy Certificates and advisory reports for public buildings**

This Guide describes the obligations that come into force on 1 October 2008 for public authorities and institutions occupying large buildings which are frequently visited by the public. An organisation affected by these Regulations must display a Display Energy Certificate (DEC) in a prominent place clearly visible to the public and have in its possession or control a valid advisory report which will contain recommendations for improving the energy performance of a building. The purpose of introducing DECs is to raise public awareness of energy use and to inform visitors to public buildings about their energy use. Buildings will be rated A to G where A is the most efficient and G the least, based on the actual amount of metred energy used by the building over a 12 month period. The aim of this guide is to help managers, owners and occupiers of large public buildings and their agents understand how the Regulations work in practice and how to apply them.

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/20.pdf>

# Construction

16

CLG Consultation

## **The Building Act 1984, The Building Regulations 2000. Proposals for amending Part G (Hygiene) of the Building Regulations and Approved Document G: Consultation** **Deadline for Responses: 05.08.08**

This paper seeks views on the Government's proposals to change the requirements of Part G, Hygiene, of Schedule 1 of the Building Regulations, and the associated guidance in Approved Document G. The proposed new Approved Document G would be called "Sanitation, Hot Water Safety and Water Efficiency" to reflect the revised scope of the Approved Document. Approved Document G was last updated in 1992, although some non-technical amendments were made in 2000. Since 1992 plumbing and building practice has moved on, standards and legislation have changed and technology has developed necessitating the proposed changes.

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Evebrief has been established for over 25 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.

#### Useful web links

[www.ukonline.gov.uk](http://www.ukonline.gov.uk)  
[www.odpm.gov.uk](http://www.odpm.gov.uk)  
[www.dft.gov.uk](http://www.dft.gov.uk)  
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[focus.focusnet.co.uk](http://focus.focusnet.co.uk)  
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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.

#### Contact details

If you require full details of any of the cases presented in this publication, or would like to discuss them in further detail, please contact our specialists:

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# evebrief

## SCOTLAND

### Planning

#### 01

Housing, Regeneration and Planning Research Report

#### **An Assessment of the Value of Planning Agreements in Scotland**

This research was commissioned by the Scottish Government in order to assess the number and value of planning agreements secured in Scotland between 2004 and 2007, to highlight trends in the use of these agreements and to forecast the value of contributions that may be secured to 2010. This report highlights the main findings from that research and will help to inform the Scottish Government's review of policy and guidance on developer contributions in the planning system.

- the number of planning agreements entered into annually is increasing as are the values being secured
- most which relate to developer contributions involve financial payments rather than in-kind contributions. The annual value of reported contributions rose from £14.4m in 2004-05 to just under £52.7m in 2006-07
- there has been a significant growth in the use of agreements under s69 of the Local Government (Scotland) Act 1973 and some authorities now appear to favour the use of these with one-off payments over agreements under s75 of the Town and Country Planning (Scotland) Act 1997. However, s75 agreements are normally used in cases where large or phased contributions are required
- contributions towards recreation were the most common and there was an upward trend in the contributions towards affordable housing, education and public transport

<http://www.scotland.gov.uk/Resource/Doc/217716/0058310.pdf>

<http://www.scotland.gov.uk/Resource/Doc/214538/0057257.pdf>

## 02

Strategic Environmental Assessment Scoping Report

### **Environmental Assessment (Scotland) Act 2005 – Scottish Planning Policy (SPP) 14 – Natural Heritage**

Scottish Planning Policy (SPP) 14 will replace NPPG 14, setting out the land use planning interpretation and application of national policy on Scotland's natural heritage. It is intended that the SPP will reflect the breadth of natural heritage interests to include nature conservation, landscape, biodiversity and their various components including flora, fauna, landforms, geology, natural beauty and amenity. The SPP will summarise the main statutory obligations in relation to natural heritage conservation, and will explain how natural heritage objectives should be reflected in development plans. The SPP will also confirm the need for planning to safeguard sites of national and international importance and to give appropriate consideration to local and non-statutory designations. This Scoping Report has been prepared in accordance with the Environmental Assessment (Scotland) Act 2005, its purpose being to set out sufficient information on SPP14 to enable the consultation authorities to form a view on the appropriateness of the proposed consultation period and methods, and on the scope and level of detail that will be appropriate for the Environmental Report.

<http://www.scotland.gov.uk/Resource/Doc/223930/0060484.pdf>

## Transport

## 03

Transportation Working Group Consultation Document

### **Transportation Noise Action Plan**

**Deadline for Comments: 21.07.08**

The European Environmental Noise Directive (END) was published in July 2002 and deals with noise from road, rail, air traffic and from agglomerations. It focuses on the impact of such noise on individuals and complements existing EU legislation, which sets standards from noise emissions from specific sources. The three main objectives of the Directive are as follows:

- to determine the noise exposure of the population through noise mapping;
- to make information available to the public on environmental noise; and
- to establish Action Plans, based on the mapping results, to reduce noise levels where necessary and to preserve environmental noise quality where it is good.

To embrace their devolved responsibility to deliver the requirements of the END legislation the Scottish Executive published the Environmental Noise Regulations 2006.

This Action Plan is one of a set of six Noise Action Plans as follows:

- The Transportation Action Plan;
- The Edinburgh Agglomeration Noise Action Plan;
- The Glasgow Agglomeration Noise Action Plan;
- The Aberdeen Airport Noise Action Plan;
- The Edinburgh Airport Noise Action Plan;
- The Glasgow Airport Noise Action Plan.

<http://www.scotland.gov.uk/Resource/Doc/224406/0060571.pdf>

# WALES

## Planning

### 04

Technical Advice Note

#### **Technical Advice Note 12: Design – Consultation Draft**

Until this guidance is finalised, TAN 12 (2002) should be used as national planning guidance while this consultation version can be used as information. It should be read in conjunction with Planning Policy Wales 2002(PPW) and subsequent revision in the Ministerial Interim Planning Policy Statement on Planning for Good Design, Planning Guidance, Technical Advice Notes (TANs) and Circulars should be taken into account by local planning authorities in Wales in the preparation of development plans. They may be material to decisions on individual planning applications and will be taken into account by the Welsh Assembly Government and Inspectors when determining appeals and called-in planning applications. The Assembly Government is committed to achieving good design in all development at every scale throughout Wales. This TAN gives more detailed advice on how this may be facilitated within the planning system and covers the basics of design and development.

<http://new.wales.gov.uk/consultation/desh/2008/designconsultation/consultation.doc?lang=en>