Legal & Parliamentary

Volume 30(10) 26 August 2008

evebrief

Editorial

At item 26, a guide to energy performance certificates for the construction, sale and let of non-dwellings sets out to help prospective parties to property transactions understand how the Directive and Regulations will work in practice and when certificates will be required. The original dates set for the introduction of EPCs starting on 6 April 2008 have already been superseded by the introduction of a six month period of grace and this guide is a timely reminder of the necessity of procuring these certificates.

From the start of October owners of buildings over 10,000m^2 will need to get an EPC when the building is put up for sale or rent. Before then an EPC is only required if the building is actually sold or rented. The grace period will also apply to buildings over 2,500m^2 which joined the scheme on 1 July. From 1 October the requirement for an EPC will also extend to all other non-domestic property with just a few exceptions. For more information on EPCs contact James Gall (jgall@geraldeve.com) or Robert White (rwhite@geraldeve.com).

The case of Bradford v James at item 12 concerns a dispute over a cobbled area along one side of a converted barn. This is a good example of a case where alternative dispute resolution could have prevented deterioration in relations between neighbours and escalating costs. The parties might have been better served by local mediators, with specialist legal and surveying skills. By the time neighbours get to court it is often too late for mediation and the costs of the case become another aggravating issue.

Hilary Wescombe

GeraldEve

Landlord & Tenant

01

Court of Appeal

New business lease – tenant carrying out repairs in expectation of new lease – whether tenant had a claim in equity for a new tenancy

** MANTON SECURITIES LTD V NAZAM (T/A NEW DADYAL CASH & CARRY)
(2008) PLSCS 211 – Decision given 17.07.08

Facts: N, who occupied business premises under a quarterly tenancy, claimed that he had protection under the Landlord & Tenant Act 1954 and that in the expectation of being granted a new 21-year tenancy by the landlord, MS, he had carried out a number of repairs to the premises at his own expense. Following a dispute over the cost of further building works N applied for a new tenancy pursuant to s26 of the Landlord & Tenant Act 1954. MS contended that N occupied the premises as a tenant at will and was not therefore protected by Part II of the Act and so was not entitled to a new tenancy. It also argued that N's claim to an equitable tenancy was unfounded and that in any event, even if he were entitled to request a new tenancy, he should not be granted one owing to his persistent delay in paying the rent.

Point of dispute: Whether MS's appeal should be allowed against the decision of the judge at first instance that N had established an equitable tenancy, and because equity should regard as done that which ought to have been done, he was entitled to a new 21-year tenancy which should be granted under Part II of the 1954 Act.

Held: MS's appeal was dismissed. The foundation of any claim for a new tenancy under the 1954 Act was mistaken as was the judge's decision that N was entitled to any such tenancy. Any request under s26 could only be made by a tenant with a tenancy "for a term of years certain exceeding one year, whether or not continued by (s24), or granted for a term of years certain and thereafter from year to year" and N's quarterly tenancy was not such a tenancy. However, the judge had been correct to conclude that N had established his equitable claim, relying not upon specific performance of a contract to grant him a lease but upon the broader principle that his expenditure on the premises, encouraged by MS, in expectation of the grant of a 21-year lease, stopped MS from denying N's right to such a lease. N was entitled to a 21-year tenancy. His poor payment record was irrelevant since had the parties not entered into a dispute over repair works MS would have been willing to grant N a new tenancy notwithstanding that record.

02

Court of Appeal

Leasehold enfranchisement – statutory procedure regarding disputes about terms

* GOLDEAGLE PROPERTIES LTD V THORNBURY COURT LTD
(2008) PLSCS 223 – Decision given 25.07.08

Facts: GP was the freeholder of a block of flats. TC was the nominee purchaser, formed by the majority of the tenants for the purpose of exercising their right to a collective enfranchisement of the block pursuant to Part 1 of the Leasehold Reform, Housing and Urban Development Act 1993. In its counternotice GP admitted TC's right to collective enfranchisement but disputed some of the proposed purchase prices for the various interests. Under s24 if, after two months from the service of the counternotice, some terms were still in dispute either party could apply to the LVT to determine those matters within six months of the counternotice. When all the terms were determined by the LVT but no binding contract had been entered into by the end of an appropriate period, either side could apply to the court for an order vesting the interests in those terms and the court could then make an order vesting the interests in the nominee purchaser. If no application was made by the end of the two months immediately following the end of an appropriate period the initial notice would be deemed to have been withdrawn, the entire procedure would come to an end and the tenants would have to wait for a year from the date of the deemed withdrawal to restart the process. GP applied to the LVT to determine the amount payable in respect of various disputed interests.

Point of dispute: Whether GP's appeal would be allowed against the county court's decision that a vesting order should be made, on the grounds that at the time when TC applied for a vesting order there had been no deemed withdrawal of the initial notice and that the application had been made in time.

Held: GP's appeal was dismissed. Section 24(1) of the 1993 Act did not prevent the LVT from dealing in stages with points which were not as yet agreed. It made no difference whether all disputed matters were put forward in a single application or successively. Ideally, the details of the transfer should be fixed before the price, but in this case there had been no suggestion that the precise terms of the transfer that would eventually be agreed would affect the price and it was open to the LVT to proceed on that basis.

Planning

03

Administrative Court

Refusal of planning permission for residential development on site near to special protection area – whether inspector erring in approach to mitigation of effects by SANGs provision

***** MILLGATE DEVELOPMENTS LTD V SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT
(2008) PLSCS 203 – Decision given 14.07.08

Facts: MDL was refused planning permission for residential development on a site close to a special protection area (SPA) that was an important bird habitat. Under the 1994 Conservation (Natural Habitat etc.) Regulations 1994 a planning authority that is presented with an application for a plan or project that is likely to have a significant effect upon an SPA is obliged to consult with the appropriate nature conservation body to assess the implications of the project for the SPA and should not grant consent if the project would adversely affect the integrity of the SPA. Natural England, the appropriate conservation body, advised that a housing development in the vicinity of the SPA was likely to have a detrimental effect upon it owing to pressures from higher numbers of people and dogs and, secondly, although there were plans to mitigate the effects of the development by providing suitable alternative natural green spaces (SANGs) in conjunction with local authorities, applications in the meantime should include mitigation measures in respect of potentially adverse effects.

Point of dispute: Whether MDL's challenge to the inspector's decision to refuse planning permission for the development should be allowed. The inspector had found that the proposal was likely to have a significant effect upon the SPA and in the absence of any provision or contribution to SANGs it could not be ascertained that MDL's project, as submitted, would not adversely affect the SPA. MDL argued that the inspector had misdirected himself and erred in attaching too little weight to SANGs proposed by local authorities in the area.

Held: MDL's claim was dismissed. In the absence of SANGs provisions being incorporated in the proposal the inspector was entitled to give little weight to local authority SANGs provisions in nearby areas. One of the sites relied upon by MDL had been dropped from the relevant authority's list of sites for further consideration and others were far away from its site. He had also been entitled to dismiss long-term strategic plans for the improvement of habitats in the SPA where these had barely begun to be implemented.

04

CLG Consultation Paper

Proposed Changes to Planning Policy Statement 6: Planning for Town Centres
Deadline for Responses: 03.10.08

In the 2007 Planning White Paper the Government announced its intention to abolish the "need test" in PPS6. This followed the findings in Kate Barker's *Review of Land Use Planning* that the test tends to distort competition and often causes planners to get caught up in a debate about technical definitions and to overlook the central question of what a proposed development would mean for a town centre. This paper sets out proposals for a new impact test, the aim of which is to enable local authorities to more thoroughly assess how proposed developments would affect town centres in the broadest sense, including their impact on consumer choice and competition. Applicants for proposals outside town centres would have to undertake a new impact assessment framework in certain circumstances. Key features of the new test include:

- broader focus with emphasis on economic, social and environmental as well as strategic planning impacts to enable positive and negative town centre and wider impacts to be taken into account;
- identification of the key impacts which applicants must assess including: impact on planned in-centre investment; whether the proposal is of an appropriate scale; impacts on in-centre trade/turnover taking into account current and future consumer expenditure capacity; and
- identification of wider impacts including accessibility, sustainable transport considerations, impact on traffic, effects on employment and regeneration; and how the proposal will make efficient use of land.

http://www.communities.gov.uk/documents/planningandbuilding/pdf/3197981.pdf

05

CLG Report

Consultation on PPS4: Planning for Sustainable Economic Development – Summary of key issues and analysis of consultation responses

There were 321 responses to the consultation on draft PPS4, the majority coming from central and local government while the remainder were mainly from business organisations. The key conclusions were as follows:

- the positive approach to sustainable economic development in draft PPS4 was generally welcomed
- there was strong support for the emphasis on the need for robust evidence to underpin both plan-making and decisions on planning applications
- there was also strong support for a less prescriptive approach to non-residential car parking, provided that it would not result in unacceptable environmental and social costs
- there were specific concerns about whether draft PPS4 achieved the right balance between economic, social and environmental considerations and whether the needs of rural areas were dealt with adequately

http://www.communities.gov.uk/documents/planningandbuilding/pdf/921761.pdf

06

CLG Report

The Community Infrastructure Levy

The Community Infrastructure Levy (CIL) will be a new charge which local authorities in England and Wales will be empowered, but not required, to charge on most types of new development in their area. CIL charges will be based on formulae relating the size of the charge to the size and character of the development paying it while its proceeds will be spent on local and sub-regional infrastructure to support the development of the area. This document contains details about how the new infrastructure levy will be set, paid and spent. It is hoped that CIL will improve predictability and certainty for developers, increase fairness by broadening the range of developments asked to contribute, allow the cumulative impact of small developments to be better addressed and enable important sub-regional infrastructure to be funded.
http://www.communities.gov.uk/documents/planningandbuilding/pdf/communityinfrastructurelevy.pdf

07

CLG Report

Common Starting Points for Section 106 Affordable Housing Negotiations

This research aimed to improve the evidence on the dynamics of planning obligations through s106 negotiations for affordable housing and to explore what the best common starting point (CSP) for such negotiations might be. It was concluded, however, that a national CSP is not viable given the significant variations in housing markets and land prices across the country. Policy and practice with regard to affordable housing provision through s106 varies considerably between LPAs and many do not have a CSP as such, but most have a policy that specifies the proportion of affordable housing they seek and other requirements such as tenure, unit size and type. The study contains a number of recommendations and aids to best practice.
http://www.communities.gov.uk/documents/planningandbuilding/pdf/commonstartingpoints.pdf

08

CLG Report

Valuing Planning Obligations in England: Update Study for 2005-06

Planning obligations, legal agreements made between local planning authorities and developers, can either relate to the provision of facilities or financial contributions or they can restrict the development or other use of land. The study updates an earlier one covering the period 2003-04 and concludes that since 2003-04 there have been three important changes:

- while the proportion of planning permissions covered by planning agreements fell slightly, the number of permissions for large developments with agreements rose significantly
- in 2005-06 the value of planning obligations was 57% higher than in 2003-04 at approximately £4bn, while the value agreed for affordable housing was 66% higher, increases which were well above land price inflation
- there is still significant variation between planning authorities in the number and value of agreements but the relationship between these variations and the market factors that might explain them is now clearer, the average value of agreements being related to land values and the number of major decisions

http://www.communities.gov.uk/documents/planningandbuilding/pdf/obligationsupdatestudy.pdf

Rating

09

House of Lords

Paragraph 11 of Schedule 5 to the Local Government Finance Act 1988 – whether part of Mormon temple from which members of the public were excluded was exempt from rating

****** CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS V GALLAGHER (VO)
(2008) All ER (D) 416 (Jul) – Decision given 30.07.08

Facts: The Church owned a 15-acre site together with a number of buildings including "the Stake Centre" which was a chapel used for public religious worship, a multi-purpose hall, some meeting rooms, an office and a baptistery; "the Temple" access to which was restricted to "patrons", members of the Church of a particular standing, "the Missionary Training Centre" and the "Patrons' Services Building". The Lands Tribunal ruled that the only building on the site that was exempt from rating, pursuant to para 11 of Sch 5 to the Local Government Finance Act 1988 was the Stake Centre and that ruling was upheld by the Court of Appeal.

Point of dispute: Whether the Church's appeal against the ruling of the lower courts should be allowed. The Church argued that the reasoning of previous authority – that the words "place of public religious worship" could not apply to places used for religious worship from which the general public were excluded – should not be applied to the 1988 Act as the case in question (concerning a Mormon temple) had been decided under the Rating and Valuation (Miscellaneous Provisions) Act 1955 and that since then there had been extensions to the exemption. Alternatively, it contended that the exclusion of all but patrons to the Temple was a manifestation of the Mormons' religion so that to deny them exemption from rates on that ground would be discrimination on the ground of religion contrary to Arts 9 and 14 of the European Convention on Human Rights.

Held: The Church's appeal was dismissed. (i) For the purposes of the exemption there would be no departure from settled authority that the words "a place of public religious worship" could not apply to places used for religious worship from which the public were excluded. The extensions of the exemption to other buildings after the 1988 Act was dependent upon the central concept of a place of public worship. The Temple was not a place of public religious worship within para 1 of Sch 5 to the 1988 Act. (ii) There was no discrimination on grounds of religion. For there to be discrimination within the ambit of art 9 of the Convention the discrimination had to be in respect of the right to manifest one's religion. A liability on a Mormon temple to pay a non-domestic rate would not prevent them from manifesting their religion. The problem was that the Mormon religion prevented them from providing the public benefit necessary to secure the tax advantage.

10

Lands Tribunal

Rating of domestic heating systems serving housing estates – whether appurtenances belonging to or enjoyed with property wholly used as living accommodation

***** ALLEN (VO) V MANSFIELD DISTRICT COUNCIL
(2008) PLSCS 209 – Before HH Judge Huskinson – Decision given 11.07.08

Property: 12 district heating systems (DHSs), each of which served a housing estate, were entered in the non-domestic rating list. Some of the systems comprised a boiler house and yard on a separate site, but one was incorporated into a building which also housed a community centre.

Point of dispute: Whether the VO's appeal should be allowed against the decision of the local valuation tribunal that the DHSs should be removed from the non-domestic list, finding that they were domestic hereditaments since they constituted some "other appurtenance belonging to or enjoyed with" living accommodation within the meaning of s66(1)(b) of the Local Government Finance Act 1988. The VO argued that the word "appurtenance" meant structures within the curtilage of a domestic property and that the DHSs did not meet that test as it was not possible to identify one particular building or group of buildings within the curtilage of which the DHSs fell, to which they belonged and with which they were enjoyed. He submitted that a housing estate could not have a curtilage for the purposes of s66(1)(b) and therefore the DHS could not be a domestic property.

Held: The VO's appeal was allowed. In order to constitute domestic property a DHS would have to constitute an appurtenance belonging to or enjoyed with property used wholly for the purposes of living accommodation and to qualify as such it had to be contained within the curtilage of such a property. A building or buildings with an identifiable curtilage within which the DHS was situated and to which it belonged or with which it was enjoyed would have to be identified. A congregation of buildings such as a housing estate could have a curtilage for the purposes of s66(1)(b) within which the DHS could lie, but it would always be a matter of fact and degree. In this case none of the 12 DHSs fell within the curtilage of any dwelling or dwellings and none of the housing estates had a principal building within whose curtilage the DHS was situated. The respondents did not appear and were not represented.

Real Property

11

Court of Appeal

Professional negligence – surveyor's valuation

****** PLATFORM FUNDING LTD V BANK OF SCOTLAND PLC (FORMERLY HALIFAX PLC)
(2008) PLSCS 231 – Decision given 31.07.08

Facts: PF was a surveyor and valuer. H wanted to purchase a property, 1 Bakers Yard, (1BY) which was still under construction, with the aid of a loan from BS. PF had previously been asked to value 1BY in connection with a loan from another company, which was refused. However, at that time, PF was misled by H into inspecting 5 Bakers Yard (5BY) a more valuable property that was nearing completion. The same valuation report was used for BS's loan. PF's report contained the following certificate: "Declaration… this valuation is for the benefit of [BS] its successors, assignees and transferees… I certify that the property offered as security has been inspected by me and that the above valuation is a fair indication of the current open market valuation for mortgage purposes…" BS agreed to advance the sum required by H, who failed to keep up with the loan payments. When BS repossessed the property the valuation error was realised. The sale of the property resulted in a shortfall of over £30,000.

Point of dispute: Whether BS could recover the sum that it had lost from PF. At first instance the judge held that it could on the grounds that if a surveyor accepted instructions to inspect a particular property he assumed an unqualified obligation to inspect that exact property.

Held: By a majority of two to one PF's appeal against the ruling of the judge in the court below in favour of BS was dismissed. In the normal retainer of a surveyor to inspect and value a property there was an inherent absolute obligation to inspect and value the correct property, so an inspection and valuation of a completely different one constituted a breach of contract, notwithstanding the surveyor's care. Although there was a presumption that those providing professional services normally did no more than undertake to exercise the degree of care and skill to be expected of a competent professional in the relevant field, there was nothing to prevent them from assuming an unqualified obligation with regard to particular aspects of their work. The correct

question to ask was whether having regard to the facts and matters known to both parties when the instructions were accepted, the professional person assumed an unqualified obligation in respect of the matter in question. PF had certified that he had inspected the property offered as security – 1BY had been offered as security but 5BY had been inspected.

Note: Sir Anthony Clarke MR dissented finding that if there was no express term in the contract that the surveyor was undertaking an absolute obligation in respect of the whole or part of his instructions, or an implied term to that effect, there was no breach of contract unless he failed to exercise reasonable skill and care: "It seems to me to make no sense… that the surveyor assumed an absolute obligation to locate [the correct house] but only a qualified obligation to exercise skill and care in the inspection and valuation of it".

12

Court of Appeal

Boundary dispute – whether fresh extrinsic evidence admissible on appeal

***** BRADFORD V JAMES
(2008) PLSCS 210 – Decision given 18.07.08

Facts: Until 1976 Mr and Mrs W owned a farm which included a barn and a farmyard. In 1975 they obtained planning permission to convert the use of the barn to that of a dwelling. In 1976 J bought the farm and the farmyard but Mr and Mrs W retained the barn which was located along one side of the farmyard. The 1976 conveyance contained no express reservation of the cobbled area next to the barn or any right of way over that area for the benefit of the retained barn. The unconverted barn was sold to F in 1977 and the plan annexed to the conveyance, which was "for identification purposes only" showed the cobbled area as being included with the land conveyed. In 1999 B bought the barn from F. Relations between B and J broke down and B sought a declaration that J could not enter or cross the cobbled area or any other part of their land. The judge declared that the cobbled area fell within J's title to the farm.

Point of dispute: Whether B's appeal against the judge's ruling should be allowed. The issue was whether the judge had wrongly construed the 1976 conveyance of the farm as including the cobbled area, and whether the plan annexed to the 1976 conveyance was sufficiently clear as to render extrinsic evidence inadmissible as an aid to its construction. The question also arose of whether the court should admit evidence of surrounding circumstances at the time of the 1976 conveyance and of subsequent acts and events concerning the cobbled area.

Held: B's appeal was allowed. As the 1976 conveyance plan was unclear as to the position of the boundary between the barn and the farm in relation to the cobbled area, permission was granted to amend the grounds of appeal in respect of items of extrinsic evidence relevant to the construction of the 1976 conveyance. Evidence of undisputed subsequent acts was also admissible if it had probative value in determining what the parties had intended in 1976. The combined effect of the pre-existing planning permission, the plans, and the use made of the cobbled area led to the conclusion that on its true construction the 1976 conveyance did not include the cobbled area and that it had passed with the 1977 conveyance of the barn.

13

High Court

Trespass – defendants operating oil wells with pipelines beneath claimant's property – assessment of damages

****** BOCARDO SA V STAR ENERGY UK ONSHORE LTD
(2008) PLSCS 219 – Decision given 24.07.08

Facts: The defendants owned the licence to extract petroleum from an oilfield in Surrey, part of which extended underneath the claimant's estate. Two of the oil-wells, production from which had commenced in 1990 and 1992 respectively, had pipelines that passed under the substrata of the estate at least 800 feet below sea level. On becoming aware that the wells encroached beneath its estate in 2006 the claimant brought proceedings against the defendants for trespass, seeking an injunction in respect of future oil extraction and 12.5% of the value of the oil extracted from the two wells since 1994 (£10m). This proportion was based on the sum that it could have obtained in negotiations for the grant of a wayleave.

Point of dispute: Whether the claim should be allowed. The claimant's argument was that although the ownership of the oil was vested in the Crown by statute and the Crown could license its extraction, that did not confer any rights of access and any such rights had to be negotiated with the landowner. The defendant argued for minimal damages only on the grounds that the drilling of the wells did not constitute a trespass: owing to their depth the wells were too far removed from the claimant's ownership of the estate and the soil beneath it and they did not affect the use and enjoyment of the land.

Held: The claim was allowed.

(i) The position regarding pipelines beneath the estate was similar to that regarding airspace, where encroachment by over-flying could be actionable even if no damage were caused. Possession of the land prima facie included the subjacent minerals, and where those minerals had been vested in the Crown by statute, that did not of itself confer rights to enter and remove them and a trespass of access had occurred, notwithstanding that the minerals were being extracted at great depth – the question was not the depth but the use for which the access was sought. Laying pipelines under the estate for the purpose of removing oil was a trespass.

(ii) Damages for the trespass should be measured as though a wayleave had been granted, negotiations for which would have been conducted against the background of the statutory right of the defendants to have the compensation assessed by the court in the event that the claimant made an unreasonable demand. In all the circumstances the appropriate figure was 9% of all the oil and gas that had been extracted over the relevant period, which ran from 2000 in accordance with the usual six-year limitation period for claims for trespass.

14

High Court

Reservation of rights – whether council unreasonably refusing its consent to construct road over land 15 years later

***** TOWN QUAY DEVELOPMENTS LTD V EASTLEIGH BOROUGH COUNCIL
(2008) PLSCS 234 – Decision given 04.08.08

Facts: In 1990 B Ltd transferred a strip of land to EBC, reserving to itself an adjoining mill site and easements over the transferred land (reserved rights), including the right to construct a road within 80 years across the strip. Exercise of the reserved rights was subject to a proviso that it would accord with the 1986 area development brief and with the consent of EBC's director of planning and development. When the mill site and adjoining land came into TQD's ownership it applied for permission to construct some blocks of flats on the land and requested consent, which was refused by EBC, to exercise the reserved rights as it wished to construct a road across the strip in order to provide access to the proposed development site. The application for planning permission was granted by the Sec of State on appeal.

Point of dispute: Whether TQD should be granted declarations that EBC had unreasonably withheld its consent and that it was entitled, as of right, to construct a road across the strip of land. EBC argued that the development, which the reserved rights was intended to serve, did not comply with the provisions of the 1986 development brief. TQD maintained that the 1990 provi did not require the use of the mill site to be that envisaged at the time of the 1986 brief and that it was subject to an implied term that the consent of EBC's director of planning and development would not be unreasonably withheld, which it had been.

Held: The declarations were granted.

(i) Although the 1986 brief expressly provided for the use of the mill site for industrial purposes, it also provided for a distributor road to the south to be used for the surrounding residential development. It was unlikely that the original parties had intended that the reserved rights would be circumscribed, for 80 years after 1990, by the industrial use of the mill site at that time, or by the principles in the 1986 brief for residential development of the surrounding land. As a last resort, if the meaning of a reserved easement remained unclear, it was to be interpreted against the vendor as grantor – in this case the commercial reality was that if EBC had intended such an unusual and restrictive interpretation of the reserved rights they would have made the position clear in the wording of the proviso.

(ii) Having regard to the surrounding facts and the planning position in 1990, the second part of the proviso was subject to a qualification that consent should not be unreasonably withheld.

15

Lands Tribunal

Application for modification or discharge of restrictive covenants – whether relevant that loss of view complained of could result from extension without breaching covenant

***** RE HOPKINS' APPLICATION
(2008) PLSCS 208 – Decision given 07.07.08

Facts: H obtained planning permission to construct four two-bedroom flats in the rear garden of his property and a new access onto the highway. The property was subject to a restrictive covenant prohibiting the erection of more than one dwelling house and garage. H applied under s84(1)(aa) of the Law of Property Act 1925 to discharge or modify the covenant on the grounds that it impeded a reasonable user of the land and secured no practical benefits of substantial value or advantage to those benefiting from it.

Point of dispute: Whether H's application should be allowed. Local residents with the benefit of the covenant raised a number of issues concerning privacy, amenity, traffic, reduction in property values and the setting of a precedent that would have a serious effect upon the character of the neighbourhood. In particular, they were concerned about the loss of a view of trees along the highway, but H argued that this was not a material consideration as he could extend his property resulting in a broadly similar effect without breaching the restriction.

Held: H's application was refused. The potential or hypothetical use that could be made of a property without breaching the restriction was to be taken into account in any consideration of ground (aa), but in this case there was no evidence that the applicant had any intention of adding an extension or that such a development would be feasible. The power to prevent such effects as interference with privacy and views from the objectors' properties and the adverse effect upon the neighbourhood was a practical benefit of substantial advantage to the objectors.

16

Statutory Instrument

SI 2008/1748 The Land Registration (Network Access) Rules 2008

These Rules, which are made under the Land Registration Act 2002 and came into force on 03.07.08, support the establishment of a land registry network for carrying out electronic conveyancing. A person who is not a member of the land registry may only have access to a land registry network under the authority of a network access agreement entered into with the Chief Land Registrar. The Rules provide for three types of network access agreement: a full network access agreement allows its Subscriber to carry out transactions on the land registry network. Read-only and signature network access agreements allow access to the network to retrieve information and, in the latter case, to apply an electronic signature to document.
http://www.opsi.gov.uk/si/si2008/pdf/uksi_20081748_en.pdf

17

Statutory Instrument

SI 2008/1750 The Land Registration (Electronic Conveyancing) Rules 2008

These Rules, made under the Land Registration Act 2002, came into force on 04.08.08 and make provision for the creation of legal charges in electronic form.
http://www.opsi.gov.uk/si/si2008/pdf/uksi_20081750_en.pdf

Compulsory Purchase

18

Court of Appeal

Amount of compensation payable on compulsory purchase of land used as public open space – Sections 14 and 15 Land Compensation Act 1961

****** GREENWEB LTD V WANDSWORTH LONDON BOROUGH COUNCIL
(2008) All ER (D) 420 (Jul) – Decision given 31.07.08

Facts: A site which was originally occupied by Victorian dwelling houses and a commercial building was severely bomb damaged during the Second World War. At some time before 01.07.48 the site was cleared and deemed planning permission for use as public open space was granted in July 1979. The site was sold by the London Residuary Body in 1988 and acquired by G in 2001. Following a public inquiry, it was indicated that planning permission would be granted for any development for which the land was acquired by WLBC but not for anything else. In 2002 a claim for compensation under the Land Compensation Act 1961 Act arose when WLBC served a purchase notice on the company.

Point of dispute: Whether WLBC's appeal should be allowed against the Lands Tribunal's assessment of compensation in the sum of £1.6m in accordance with s15 of the 1961 Act. It argued that where the compensation which the company was entitled to with the land being treated as public space was only £15,000, Parliament could not have intended the provisions of ss 14 and 15 of the 1961 Act to result in an award of £1.6m to G and it also submitted that there was ambiguity in the use of the word "shall" in those sections: s14 provides "(1) For the purpose of assessing compensation in respect of any compulsory acquisition, such one or more of the assumptions mentioned in ss 15 and 16 of this Act as are applicable to the relevant land or any part thereof shall… be made in ascertaining the value of the relevant interest". Section 15, so far as material, provides "(3) Subject to subsection (4) of this section, it shall be assumed that, in respect of the relevant land, or any part of it, planning permission would be granted…"

Held: WLBC's appeal was dismissed. There was no ambiguity in the word "shall", or in the phrase "it shall be assumed that…" – the assumption was mandatory. The consequences of the application of clear statutory words were not so absurd that one could see that there had been a drafting mistake. There was no contextual support for anything other than a mandatory provision.

Per curiam: In reaching its conclusion the judges endorsed the recommendation of the Law Commission in its Final Report on Compensation for Compulsory Purchase at para 8.39 that s15(3) and 40 of the Land Compensation Act 1961 should be repealed without replacement.

19

High Court

Validity of compulsory purchase order – whether order should be quashed – section 23 Acquisition of Land Act 1981

***** MALEY V SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT
(2008) All ER (D) 98 (Aug) – Decision given 15.08.08

Facts: Following a meeting of its chief officers the second defendant local authority declared a clearance area in respect of a street of two-storey terraced dwellings on the grounds that they were "unfit for human habitation by reason of structural instability". Following a public inquiry an inspector appointed by the Sec of State recommended the making of a compulsory purchase order in respect of the clearance area.

Point of dispute: Whether M's challenge to the validity of the CPO under s23 of the Acquisition of Land Act 1981 should be allowed. M submitted that: (i) both the local authority and the Sec of State had failed to consider and investigate the impact that the CPO would have on her human rights, namely the right to respect for private life and the peaceful enjoyment of possessions under art 8 of, and art 1 of the First Protocol to, the European Convention on Human Rights; (ii) there were other "less intrusive" measures which could have been taken eg what had been described as the "minimal repair" option; and (iii) the authority's chief officers had no power to declare the clearance area and that decision could only have been taken by the Director of Community and Adult Services (the responsible officer).

Held: M's application was dismissed. No duty could be placed on the public bodies concerned to investigate M's human rights complaints: those were a matter for her and she had to raise and prove them. The declaration of the clearance area and the subsequent CPO were on the evidence the most satisfactory course of action, being economically viable and realistic. The "minimal repair" option would not have solved the underlying problem of the structural instability of the dwellings. Finally, although the clearance area had been declared by the authority's officers, that had always been the responsible officer's intention and this was not a case where his authority had been bypassed.

Housing

20

House of Lords

Local authority seeking possession against travellers – defendants had no right to remain on land under English law – local authority seeking summary judgment – whether defendants had arguable human rights defence – Article 8 European Convention on Human Rights (ECHR)

****** BIRMINGHAM CITY COUNCIL V DOHERTY
(2008) All ER (D) 425 (Jul) – Decision given 30.07.08

Facts: BCC owned a caravan site in Birmingham. D occupied one of the plots under a licence granted in 1987, extended in 1998 to include one more plot. BCC served notice to quit in 2004 contending that it required vacant possession to carry out improvement works and that D's presence was deterring other travellers from settling on the site. Relying on his right to a private and family life under art 8 of ECHR D argued that BCC's actions were unlawful. There was a preliminary determination of the question of whether a defendant, who has no proprietary or contractual rights, has a human rights defence to a possession claim by a landowner. In the High Court judgment was given for BCC and on appeal the Court of Appeal indicated that there are two gateways to a successful defence to summary judgment in cases such as this one: (i) a seriously arguable challenge under art 8 to the law under which the possession was made, but only where it was possible using the Human Rights Act 1998 to adapt the domestic law to make it more compliant; and (ii) a seriously arguable challenge on conventional judicial review grounds (rather than under the Human Rights Act) to the local authority's decision to recover possession.

Point of dispute: Whether D's appeal should be allowed against the Court of Appeal's ruling that this case could not be remitted to the judge for a judicial review challenge as BCC's decision had in the end depended on an administrative judgment about the appropriate use of its land in the public interest which was within the margin of appreciation allowed by European Court of Human Rights case law in the exercise of an administrative discretion. D argued that the decision of the majority of the House of Lords in *Lambeth Borough Council v Kay (2006)* could no longer stand in the light of the decision of the European Court of Justice in *McCann v United Kingdom (2008).*

Held: The appeal was allowed in part. (i) The decision of the majority of the House of Lords in *Lambeth London Borough Council v Kay* remained good law. (ii) A defence to a possession order which did not challenge the law under which it was sought but was based only on the personal circumstances of the occupier should generally be struck out, but in an exceptional case that basic rule could be disapplied through the two "gateway" exceptions outlined above. In this case there was no possibility of finding a solution through the first gateway; the laws in question were not incompatible with art 8 in the light of the Housing and Regeneration Act 2008 which had passed through Parliament and received Royal Assent during the course of the appeal. It was, however, arguable that the decision could be challenged by judicial review. The site had been occupied as D's family home for about 17 years when the notice was served and therefore it could be argued that it was unfair for BCC to be able to claim possession without being required to make good the reasons that it gave in its own statement of claim for doing so. The case would be remitted to the judge so that he could review the notice to quit on judicial review grounds.

21

Act of Parliament

Housing and Regeneration Act 2008

This Act received Royal Assent at the end of July.

(i) It sets up the new Homes and Communities Agency which has been created to take on the role of the soon to be abolished English Partnerships and the Housing Corporation's investment functions and to allow the government to implement its pledge of building three million new homes by 2020.
(ii) A new Office for Tenants and Social Landlords is established to replace the Housing Corporation as the new regulator of social housing.
(iii) It introduces sustainability certificates with a rating scheme for new builds in England and Wales.
(iv) Local authorities must now hold ballots prior to any transfer of their housing stock to a private sector landlord, and following a successful ballot they must seek the Secretary of State's permission for the transfer.
(v) The Act introduces the Family Intervention Tenancy for local authorities and registered providers of housing. This type of tenancy is granted to tenants who have a possession order against them on the grounds of anti-social behaviour and provides an option for supporting the tenant and their family.
(vi) The Act abolishes the status of the tolerated trespasser. In future, following a possession order, the tenancy will continue until the warrant for possession is executed.

http://www.opsi.gov.uk/acts/acts2008/pdf/ukpga_20080017_en.pdf

22

CLG Publication

Housing and Planning Key Facts – August 2008

This publication contains data on matters such as:

- households and population projections;
- housing stock – types and changes;
- vacant dwellings;
- Local Authority and Registered Social Landlord lettings;
- rental figures;
- planning statistics;
- decent homes; and
- energy efficiency.

http://www.communities.gov.uk/documents/housing/pdf/920785.pdf

Taxation

23

Statutory Instrument

SI 2008/1932 The Stamp Duty Land Tax (Zero-Carbon Homes Relief) (Amendment) Regulations 2008

These Regulations, which came into force on 13.08.08, amend the 2007 Regulations ("the principal Regulations") which provide relief from stamp duty land tax on the first acquisition of a dwelling which is a zero-carbon home in accordance with ss58B and 58C of the Finance Act 2003. The Regulations provide that an accredited assessor may charge a reasonable fee for assessing a dwelling and producing a certificate for the purposes of the principal Regulations.
http://www.opsi.gov.uk/si/si2008/pdf/uksi_20081932_en.pdf

Construction

24

CLG Consultation Paper

Simplified arrangements for production of CO_2 emission rate calculations for new buildings under the Building Regulations 2000
Deadline for Responses: 26.08.08

The Government is introducing a number of energy and cost saving measures with the aim of making buildings more energy efficient. This document is concerned with two of those measures:

(i) the requirement to demonstrate that the actual as built CO_2 emission rate does not exceed the target CO_2 emission rate for the building concerned as required by regulation 17C of the Building Regulations 2000; and
(ii) the requirement to provide an energy performance certificate for all new buildings.

This document contains proposals on how the arrangements for showing compliance might be streamlined through simplification and better co-ordination of the requirements.
http://www.communities.gov.uk/documents/planningandbuilding/pdf/co2calculations.pdf

25

CLG Publication

Improving the energy efficiency of our buildings: A guide to air-conditioning inspections for buildings
The Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 SI 2007/991 amended by SI 2007/1669, SI 2007/3302 and SI 2008/647

This document aims to assist persons involved in the management or control of air-conditioning plant to understand how this Directive and the Regulations work in practice, how to apply the Regulations, the nature of their responsibilities and the need for inspections.
http://www.communities.gov.uk/documents/planningandbuilding/pdf/889248.pdf

26

CLG Publication

A guide to energy performance certificates for the construction, sale and let of non-dwellings (2nd edition July 2008)
The Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 SI 2007/991, amended by SI 2007/1669, SI 2007/3302 and SI 2008/647

This guide provides an introduction to the Regulations for energy performance certificates for non-dwellings on construction, sale or let in England and Wales. It describes the scope and requirements of the Regulations applying to non-dwellings on construction, sale or let and provides guidance on how these are applied. Certificates will now be required by 1 October.
http://www.communities.gov.uk/documents/planningandbuilding/pdf/nondwellingsguidance.pdf

27

CLG Publication

A guide to generating Energy Performance Certificates for similar dwellings owned by the same landlord

This document describes multiple EPC production techniques that can be used by landlords with large amounts of similar stock in both the private and social sectors, although it is more likely to be relevant to the social rented sector. It covers:

(i) A Common Values approach which involves producing an EPC for one property using data from a similar property that has been amended to account for differences between them; and
(ii) Sampling and Multiple Certification under which EPCs for a group of properties are produced following a survey of a sample, where it can be shown that the dwellings are similar enough to make this approach valid.

The guidance also describes how to obtain on overview of the energy efficiency of housing stock from sample EPCs.
http://www.communities.gov.uk/documents/planningandbuilding/pdf/epcsforlandlord.pdf

Transport

28

Act of Parliament

Crossrail Act 2008

This Act, which authorises the construction of the Crossrail railway west to east across London from Maidenhead to Shenfield and Abbey Wood, received Royal Assent on 22.07.08. The line will incorporate new stations at Paddington, Bond Street, Tottenham Court Road, Farringdon, Liverpool Street, Whitechapel, and the Isle of Dogs (Canary Wharf). The Act grants powers to acquire the necessary land and for Crossrail to be built and maintained. Enabling works will take place next year, while the main construction will commence in 2010.
http://www.opsi.gov.uk/acts/acts2008/ukpga_20080018_en_1

General

29

CLG Consultation Paper

Local Authorities (Charges for Property Searches) (England) (Wales) Regulations: A consultation paper
Deadline for Responses: 30.09.08

This paper sets out draft Regulations (The Local Authorities Charges for Property Searches) Regulations 2008) and a related statutory instrument, the Local Authorities (Charges for Property Searches) (Disapplication) Order 2008. These instruments would implement proposals on future arrangements for Local Authority charges for property search services their aim being to:

- deliver greater consumer benefits by improving the quality of property searches and fairer competition;
- ensure the improved delivery of property searches; and
- clarify the legal basis for the charges made by local authorities for searches.

http://www.communities.gov.uk/documents/housing/pdf/chargespropertysearch.pdf

30

British Council of Offices Publication

What drives demand for offices in Great Britain?

Following the publication of an article in the media predicting the demise of the London office market, this research was commissioned by the British Council of Offices to consider the competitiveness of the UK office market. Analysing the fundamental structure of the UK office market it was found that there had been a significant growth in demand for office space due to the significant shift in the UK economy towards knowledge based employment. Looking to the future for the office market the research forecasts a fall of 20% in Central London office rents but considers that this will have a positive impact on the UK and London's overall competitiveness as occupiers' costs will fall.
http://www.bco.org.uk/research/researchreports/detail.cfm?rid=118&cid=0

31

UK Occupier Satisfaction Index (OSI) 2008

This is a new annual index and opinion survey to measure satisfaction amongst customers of the UK commercial property industry. The index, which has been commissioned by the Property Industry Alliance in conjunction with CoreNet Global UK, is the first initiative of its type to have been arranged by representative bodies from both occupier and the property supply communities, and it is hoped that it will inform the debate about service standards within the commercial property industry and act as a catalyst for innovation and change.
http://www.occupier-satisfaction.co.uk/

32

CABE Publication

Housing Market Renewal – Action plan for delivering successful places

Housing market renewal, the Government's programme for delivering housing-led regeneration across 12 areas in the north of England and the West Midlands has been running for five years. CABE notes that while there have been some successes in that time many challenges remain. CABE argues that new ways forward should now be considered. This action plan, put forward jointly by CABE, English Heritage and the Sustainable Development Commission, proposes that the agenda should shift away from housing and towards a broad-based, design-led regeneration programme with place-making at its centre.
http://www.cabe.org.uk/AssetLibrary/11649.pdf

33

CLG Publication

Matters relating to High Hedges – Notes to Local Authorities

The purpose of these notes is as follows:

- to provide new guidance on the role of the Local Government Ombudsman and where work may be required to deciduous parts of high hedges;
- to clarify some issues, in the light of experience, relating to the issue of remedial notices and the proposed review of the legislation in 2010;
- to remind councils of the importance of accurately:
  - defining the hedge;
  - calculating the height of the hedge to be required by the remedial notice; and
  - specifying the works in the notice.

These notes are a supplement to the existing guidance contained in *High Hedges Complaints: Prevention and Cure* issued by the ODPM in 2005 and the frequently asked questions on the Department's website.
http://www.communities.gov.uk/documents/planningandbuilding/pdf/highhedgesnotes.pdf

34

CLG Statistical Release

House Price Index – June 2008

The main findings are as follows:

- UK house prices were 0.6% higher than in June 2007, down from 3% in the year to May 2008;
- The mix-adjusted average house price in the UK overall was £215,029 in June 2008 (not seasonally adjusted) - £221,763 in England, £162,168 in Wales, £167,577 in Scotland and £220,199 in Northern Ireland. Only the East, London, South East and the South West had average prices above the UK average;
- UK house prices fell by 1.1% in the quarter ending June 2008. This compares with a fall of 0.1% for the quarter ending March 2008;
- Annual house price growth was highest in Scotland (+5.7%) and lowest in Northern Ireland (-9.4%);
- Annual house prices fell by 1.0% in Wales, and rose by 0.5% in England;

http://www.communities.gov.uk/documents/corporate/pdf/923794.pdf

35

CLG Statistical Release

Land Use Change Statistics (England) 2007 – provisional estimates (July 2008)

This statistical release contains information on changes on previously developed land, density of new dwellings, changes within the Green Belt, changes within areas of high flood risk, land changing to residential use and changes to developed uses.

(i) It is provisionally estimated that in 2007 75% of dwellings were built on previously developed;
(ii) It is provisionally estimated that new dwellings were built at an average density of 45 dwellings per hectare in 2007, compared to 41 dwellings per hectare in 2006.
(iii) In 2006 2% of dwellings were built within the 2007 Designated Green Belt and 5% of land changing to residential use (from any use including residential) was within the Green Belt. These figures have not changed since 2004.
(iv) In 2006 10% of dwellings were built within areas of high flood risk and 7% of land changing to residential use was within areas of high flood risk. This compares to 9% and 6% respectively in 2005.

http://www.communities.gov.uk/documents/corporate/pdf/909375.pdf

36

CLG Report

Eco-towns: Living a greener future – progress report

The Government has announced plans to build five eco-towns by 2016 and up to ten by 2020 as part of its commitment to construct three million homes by 2020. This eco-towns update follows the end of the first stage of the consultation on the eco-towns programme and sets out:

- initial proposed standards and planning process for eco-towns;
- an updated list of locations and details about where information on the proposals can be found;
- how the second stage of the consultation will work; and
- the work underway to assess the proposals across Government and with local authorities and other partners.

http://www.communities.gov.uk/documents/housing/pdf/ecotownsprogressreport

Gerald Eve's UK office network

Gerald Eve is an independent firm of chartered surveyors and property consultants, employing more than 300 staff across the UK.

We provide a comprehensive range of services to our private and public sector clients covering agency, asset management, professional and transaction-based advice.

Our philosophy is to serve clients by identifying opportunities and solving problems relating to property through the provision of high quality, thoroughly researched cost effective advice.

London (West End)
David Butters Tel. 020 7333 6237
dbutters@geraldeve.com

London (City)
Simon Prichard Tel. 020 7489 8900
sprichard@geraldeve.com

Birmingham
Chris Kershaw Tel. 0121 616 4800
ckershaw@geraldeve.com

Cardiff
Simon Rees Tel. 029 2038 8044
srees@geraldeve.com

Glasgow
Ken Thurtell Tel. 0141 221 6397
kthurtell@geraldeve.com

Leeds
Mike Roberts Tel. 0113 244 0708
mroberts@geraldeve.com

Manchester
Mike Roocroft Tel. 0161 830 7070
mroocroft@geraldeve.com

Milton Keynes
Simon Dye Tel. 01908 685950
sdye@geraldeve.com

West Malling
Lisa Laws Tel. 01732 229423
llaws@geraldeve.com

best company 2008

To add your name to the evebrief distribution list, please contact us at evebrief@geraldeve.com

Evebrief has been established for more than 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
www.odpm.gov.uk
www.dft.gov.uk
www.inlandrevenue.gov.uk
www.hmso.gov.uk
www.egi.co.uk
focus.focusnet.co.uk
www.newlawonline.com

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:

Agency
Chris Kershaw Tel. 0121 616 4800
ckershaw@geraldeve.com

Compensation & Compulsory Purchase
Tony Chase Tel. 020 7333 6282
tchase@geraldeve.com

Construction
David Murgatroyd Tel. 0121 616 4808
dmurgatroyd@geraldeve.com

Environment & Contamination
Keith Norman Tel. 020 7333 6346
knorman@geraldeve.com

Landlord & Tenant
Graham Foster Tel. 020 7653 6832
gfoster@geraldeve.com

Leasehold Reform
Julian Clark Tel. 020 7333 6361
jclark@geraldeve.com

Minerals & Waste Management
Philip King Tel. 0113 244 0708
pking@geraldeve.com

Planning & Development
Hugh Bullock Tel. 020 7333 6302
hbullock@geraldeve.com

Rating
Jerry Schurder Tel. 020 7333 6324
jschurder@geraldeve.com

Real Property
Annette Lanaghan Tel. 020 7333 6419
alanaghan@geraldeve.com

Valuation
Rebecca Runcorn Tel. 020 7333 6421
rruncorn@geraldeve.com

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

For more information on our research services please contact:
Robert Fourt
Partner
Tel. 020 7333 6202
rfourt@geraldeve.com

Legal & Parliamentary

Volume 30(10) 26 August 2008

evebrief

SCOTLAND

Planning

01

Scottish Planning Policy

Scottish Planning Policy 3 Planning for Homes (Revised 2008)

SPP 3 sets out the Scottish Government's policy on the identification of housing requirements, the provision of land for housing and the delivery of homes through the planning system. Its main aim is to refocus the role of planning in the delivery of housing, from debates around calculation of housing requirements and land availability to building a better, more diverse range of housing to serve the economic, social and environmental aspirations of Scotland. The key objectives of this SPP are to provide policy guidance on the following:

- the identification of housing need and demand on a more consistent and robust basis through joint working between local authorities and a range of partners;
- the use of the planning system to facilitate the construction of well-designed, good quality housing in sustainable locations;
- the allocation of a generous supply of land to meet identified housing requirements across all tenures, including affordable housing and related policy objectives;
- mechanisms to help ensure that planned housing is built, including quick and efficient review of development plans to enable maintenance of a five-year effective land supply – to support:
- the creation of high-quality places which support the development of sustainable communities.

Scottish Planning Policy SPP 3: Planning for Homes (Revised 2008)
http://www.scotland.gov.uk/Resource/Doc/233260/0063937.pdf

WALES
Planning

02

Welsh Assembly Consultation Paper
Proposals for resourcing the Planning Service: A Consultation Paper
Deadline for Responses: 19.09.08

This consultation concerns the fees that local planning authorities in Wales charge for handling applications for planning permission, for approval of reserved matters and for altering or removing conditions imposed on planning permissions. It puts forward options for changes to the system of planning fees to be introduced in November 2008, including:

- fee increases in line with inflation annually linked to the Retail Price Index;
- removal of the maximum fee for making a planning application;
- introduction of fee for discharge of planning conditions;
- increasing the specific fee for wind farm planning applications; and
- bring fees in line with England.

http://new.wales.gov.uk/consultation/desh/2008/planningfees/lettere.doc?lang=en

03

Welsh Assembly Consultation Paper
Further Consultation on Planning for Climate Change
Deadline for Responses: 03.10.08

This consultation paper seeks comments on draft planning policy relating to the delivery of climate responsive developments through the use of sustainable buiding standards and local renewable and low carbon energy sources. It sets out specific amendments to replace pararaphs 12.1.14 and 12.9.1 of the Draft Planning for Climate Change Ministerial Interim Planning Policy Statement (MIPPS) issued in December 2006.

http://new.wales.gov.uk/consultation/desh/2008/ccc/consultdoce.doc?lang=en

04

Welsh Assembly Consultation Paper
Planning Policy Changes to support sustainable developement in rural areas – meeting housing needs
Deadline for Responses: 10.10.08

This consultation paper seeks comments on draft planning policy in the following areas:

- essential dwellings to meet the legitimate needs of rural businesses (Part 1)
- affordable housing in rural areas (Part 2)
- low-impact development (Part 3)

The Welsh Assembly Government is committed to increasing the supply of affordable homes by 6,500 over the next four years and to extending the scope of the essential dwellings category. It also wants to assist new entrants to farming by permitting second dwellings on farm holdings where this would facilitate succession.
http://new.wales.gov.uk/consultation/desh/2008/housingneeds/consultatione.doc?lang=en