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evebrief

Editorial



At items 09 and 10 we report on the latest house building statistics from CLG. More gloom as the numbers of housing starts and completions fall. However, it is of course helpful to look to the future in times like these. A variety of market commentators and our own experienced development team are more sanguine about the economic cycle.

The Government's influence on the economy, particularly in the Banking Sector, and the availability of finance will be significant factors influencing the depth and duration of the recession. It is interesting to note Northern Rock's recent activity in the mortgage market, and CLG's identification of an additional 4.9m households (in England) by 2026, many of which will be one person (older age bracket) households with the effect that will have on the demand for new housing of a variety of types.

Commentators point to a bottoming out of the cycle in Q2 2010 as the effects of the lowering of interest rates and the UK's more competitive exchange rate work their way through the economy. We should all hope that this is a conservative estimate and the green shoots go on to blossom earlier rather than later.

Peter Dines

Landlord & Tenant

01

Court of Appeal

Landlord's consent to assign — landlords seeking guarantee by sole director of purchaser to be released on subsequent assignment provided that reasonable alternative security provided — whether proviso conferring on landlord greater protection than it was entitled to under headlease

* LANDLORD PROTECT LTD V ST ANSELM DEVELOPMENT CO LTD
(2009) PLSCS 62 — Decision given 20.02.09

Facts: At an auction in 2006 LP contracted to buy SAD's head leasehold interest in a block of flats for £1.05m and paid a deposit of £105,000. Condition 9 of the auction conditions of sale dealt with obtaining landlord's consent to an assignment which provided that LP would have to "if properly required under the terms of the lease" provide "guarantees, a rent deposit or other security". If within three months of the contract the landlord's consent had not been obtained either party could rescind the contract. As LP was a dormant company that had never traded the landlords were only willing to consent to the assignment if its sole director, R, acted as guarantor. In its license to assign the landlords sought a guarantee that would be released on a subsequent assignment "provided that a reasonable alternative security is provided by the purchaser". LP objected to this proviso as the landlord was seeking protection that was not available under the headlease; it might require a guarantee of equal strength to that being provided by R, and the headlease conferred no right to any guarantee. Consent was not obtained within the three month period and LP purported to rescind the contract. The rescission was not accepted by SAD who forfeited the deposit.

Point of dispute: Whether LP's appeal should be allowed against the decision of the court below that its deposit should be forfeited.

Held: The appeal was allowed. The landlord's requirement of a personal guarantee, the discharge of which would be subject to the proviso in its draft license to assign, was unreasonable under the terms of the lease. LP had been entitled to rescind the contract and its deposit should be returned. As a matter of law it was generally unreasonable for a landlord to require a guarantee of an assignee's liabilities to extend beyond the period during which an assignee was liable to the landlord by privity of estate.

Planning

02

High Court

Development commenced in breach of permission conditions — whether period for enforcement against operations expired

* ROSTRUM LTD V SEC OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT
(2009) All ER (D) 35 (Feb) — Decision given 04.02.09

Facts: R owned a development site with an extensive planning history. In 1981 outline planning permission was granted for development subject to various conditions. Work commenced in 1987 ("the commencement works") but the local authority contended that they were in breach of the conditions attached to the 1981 permission. In February 2004 R was refused permission for a certificate of lawful use on the ground that the 1981 permission, as well as a 1987 approval of reserved matters, had lapsed.

Point of dispute: Whether R's application for an order to quash the inspector's decision should be allowed. The issue was whether, by virtue of passage of time, the commencement works had become immune from enforcement and were therefore lawful.

Held: The application was allowed. When the permitted period for taking enforcement action against the commencement works expired, those operations became lawful. The local authority should have issued a certificate of lawfulness in connection with the proposed development.

03

Administrative Court

Visual amenity notice — extent of land affected by notice — s215 and s217(1)(c) of the Town and Country Planning Act 1990

* TONI AND GUY (SOUTH) LTD V HAMMERSMITH AND FULHAM LONDON BOROUGH COUNCIL
(2009) PLSCS 49 — Decision given 11.02.09

Facts: HFLBC issued a visual amenity notice under s215 of the Town and Country Planning Act 1990 requiring works to be carried out to a building in order to remedy its poor condition. The notice, which was served on the freeholders, the mortgagees and the occupiers of the various floors, stipulated that the render on the front elevation at first, second and third floor levels needed to be repaired and repainted. TG, who was the ground floor tenant, appealed against the notice on the ground that it exceeded the works that were necessary for preventing the condition of the land from adversely affecting the amenity of the area, and that in any event the notice required remedial works to be carried out to parts of the building over which it had no control.

Point of dispute: Whether TG's appeal should be allowed against the decision of the county court to dismiss TG's appeal against the notice on the ground that a s215 notice had to be served on all owners and occupiers of a property in question. TG argued that: (i) the notice was a nullity insofar as it required them to carry out works to the first, second and third floors of the property over which they had no control and which would involve them in carrying out a trespass; and (ii) a visual amenity notice could only be served on the owner and occupier of land the condition of which was adversely affecting the amenity of the area, and the condition of the ground floor did not do so.

Held: TG's appeal was allowed. It could not rely on the "over-enforcement" ground of appeal under s217(1)(c) which related to cases where the specified remedial work exceeded that which was reasonably necessary to be carried out in order to remove the adverse effect on amenity, but the notice did exceed HFLBC's statutory power under s215. That power was confined to land the condition of which was adversely affecting amenity; in this case only the first, second and third floors of the building had been identified as being in a condition that was detrimental to amenity and the remedial work identified in the notice related to those floors. HFLBC should not have served a notice on TG as the occupier of the ground floor whose condition did not require work.

04

Administrative Court

Tree Preservation Order

* PALM DEVELOPMENTS LTD V SEC OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT
(2009) PLSCS 53 — Decision given 13.02.09

Facts: PD wished to develop a site on the River Medway as a commercial wharf. Until 1939 it had been used as a lime and cement works, but since then had been colonised by trees and other vegetation. The Ipa refused planning permission and sought to protect the trees on the site by making a tree preservation order (TPO) in respect of "woodland" under s198 of the Town and Country Planning Act 1990. It then refused PD's application for permission to clear vehicular access corridors through the site to the river and to remove all scrub, shrubs and saplings with a diameter of less than 75mm at 1.5m above ground level. That decision was upheld by an inspector appointed by the Sec of State who took the view that the TPO covered trees at all stages of their lives and its purpose was to safeguard the woodland as a whole. Removal of young trees would mean that the woodland could not regenerate.

Point of dispute: Whether PD's application to quash the inspector's decision should be allowed. PD alleged that the inspector had erred in law in the way in which she had approached the appeal. Issues arose as to: (i) what amounted to a tree for the purposes of the 1990 Act, and in particular whether it included young saplings; and (ii) whether a woodland TPO protected future trees as well as ones growing at the time of the TPO.

Held: PD's claim was dismissed. The inspector had been entitled to conclude that the works proposed by PD would be harmful and unjustified. A woodland TPO protected only trees and not other plants, fungi, wildlife or habitats generally associated with woodland. The fact that neither the Town and Country Planning Act 1990, nor the Regulations relating to trees made under it, defined "tree", "woodland" or "sapling", and that they did not contain any references to size limitation indicated that all saplings were protected by a woodland TPO. Such an order also applied to future trees as it was intended to protect an unidentified mass of trees in a specified area, which depended on regeneration and new planting for its survival.

05

Administrative Court

Halal abattoir — whether need to meet requirements of new regulations capable of amounting to "very special circumstances" outweighing harm to the green belt

* R (ON THE APPLICATION OF SUMMERS POULTRY PRODUCTS LTD) V SEC OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT
(2009) PLSCS 58 — Decision given 16.02.09

Facts: SPP operated a halal poultry abattoir from premises situated in the green belt. New regulations were introduced which meant that the abattoir had to be upgraded and SPP applied to the lpa for permission to construct extensive new facilities that would almost double the footprint of the premises. Refusal of permission was upheld by the inspector appointed by the Sec of State who concluded that: (i) the need to meet the new regulatory requirements was a normal requirement of business; (ii) the benefits of the proposal did not outweigh the harm; and (iii) there were no special circumstances that would justify the development in the green belt.

Point of dispute: Whether SPP's appeal against the inspector's decision should be allowed. SPP contended that the inspector had been wrong to find that the need to meet new regulatory requirements could not amount to "very special circumstances". It also argued that an abattoir was not a normal business since it was governed by such a rigorous regulatory regime.

Held: SPP's appeal was dismissed. The inspector had not found that the need to comply with regulatory requirements could not amount to very special circumstances, but merely that it did not enable a building to be built without regard to green belt policy. Having addressed all the relevant matters the inspector had been entitled to conclude that the development would encroach upon the green belt and that its benefits were insufficient to outweigh the harm that it would cause.

06

CLG Publication

Proposed changes to Planning Policy Statement 6: Planning for Town Centres (PPS6) — Summary of public consultation responses

In July 2008 the Department launched a public consultation on its proposed changes to Planning Policy Statement 6: Planning for Town Centres (PPS6). This put forward a new way to assess the potential impact of out-of-centre development proposals, and replacement of the 'need' test with an impact test. The consultation ended in October 2008. This summary is a digest of the views of 368 organisations and individuals who responded.

<http://www.communities.gov.uk/publications/planningandbuilding/pps6responses>

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/pps6responses.pdf>

Rating

07

Statutory Instrument

SI 2009/204 The Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment) (England) Regulations 2009

These Regulations, which come into force on 09.03.09, amend the 1989 Regulations to make special provision in relation to the collection of certain backdated liability to rates. The Regulations insert a new Schedule 1A into the 1989 Regulations to provide that where a ratepayer is subject to backdated liability that has not already been discharged the billing authority and ratepayer can agree to reschedule the liability that accrued in the period between the effective date of the amendment to the rating list and the date the amendment was actually made, so that it is payable over a period not exceeding eight years. The criteria that must be satisfied before a ratepayer can take advantage of these arrangements are set out in paragraph 1 of new Schedule 1A. In particular, para 1 provides that the arrangements will apply only where the backdated liability arises as a result of a change to a rating list which is made on or before 31.03.10 and where the demand notice in respect of the liability was issued in the financial year beginning on 01.04.07, 01.04.08 or 01.04.09.

http://www.opsi.gov.uk/si/si2009/uksi_20090204_en_1

Leasehold Reform

08

Lands Tribunal

Leasehold enfranchisement under the Leasehold Reform, Housing and Urban Development Act 1993 (LRHUDA) — purchase price payable to landlord for freehold — deferment rate to be applied — whether landlord should be permitted to adduce evidence challenging *Sportelli* generic deferment rate

* EARL CADOGAN V ERKMAN

(2009) PLSCS 39 — Decision given 22.12.09

Facts: In a collective enfranchisement claim under the LRHUDA the leasehold valuation tribunal (LVT) was asked to determine the purchase price payable by the nominee purchaser (E) to the landlord (EC) for the freehold of a flat. An issue arose as to the appropriate deferment rate to be applied as the existing lease of the flat had only 17 years left to run. The LVT applied the 5% generic rate for flats laid down by the Lands Tribunal in the case of *Earl Cadogan v Sportelli (2007) 1 EGLR 153* (See Evebrief Vol 29(02) item 10). On appeal against that decision the nominee purchaser contended that the rate of 5.5% should have been applied while EC, in its statement of case, supported the *Sportelli* rate. Subsequently, EC filed a report written by a financial expert who had reviewed the expert evidence given in *Sportelli* which disagreed with some of the conclusions reached by the Lands Tribunal and argued that the deferment rate to be applied to the flat in this case should only be 3.75% with the possible addition of an 0.25% increment for flats.

Point of dispute: Whether EC could rely on the report. E argued that he could not as it would be an abuse of process to challenge the decision in *Sportelli*.

Held: E's application was granted. EC's case before the LVT had been that the 5% deferment rate was correct and it had not sought leave to appeal against the LVT's conclusions on that point. If a party could insist on adducing evidence designed to show that LT guidance was incorrect it would undermine the concept of guidance. In this case the evidence that EC sought to adduce was a direct challenge to the *Sportelli* guidance and there were no exceptional circumstances that justified its inclusion.

Housing

09

CLG Publication

Housing and Planning Key Facts — February 2009

This quick reference leaflet is published quarterly and contains a snapshot of the main housing and planning data, including, inter alia:

- households and population projections;
- housing Stock;
- vacant dwellings;
- private housing market;
- rent levels;
- local authority and registered social landlord lettings;
- homelessness;
- planning statistics;
- decent homes; and
- energy efficiency

More detailed housing and planning data can be found in the live tables.

<http://www.communities.gov.uk/documents/statistics/doc/1139237.doc>

10

CLG Housing Statistical Release

House Building: December Quarter 2008, England

- In the December quarter of 2008 there were 16,300 seasonally adjusted housing starts in England, down 27% on the previous quarter and 58% lower than the same quarter in 2007.
- Private enterprise starts were down 64% compared with the December quarter of 2007, but over the same period housing starts by Registered Social Landlords fell by only 5%.
- Compared to the previous quarter housing completions fell by 3% in the December quarter 2008, but they were 25% lower than in the same period in 2007.
- Private enterprise completions were 32% lower in the December quarter 2008 than in the same quarter in 2007, but over the same period completions by Registered Social Landlords rose by 10%.
- Annual housing completions totalled 141,900 in 2008, 19% lower than in 2007.

<http://www.communities.gov.uk/documents/statistics/pdf/1150294.pdf>

Compulsory Purchase

11

Administrative Court

Compulsory purchase powers

* R (ON THE APPLICATION OF SAINSBURY'S SUPERMARKETS LTD) V WOLVERHAMPTON CITY COUNCIL
(2009) PLSCS 38 — Decision given 03.02.09

Facts: A potential development site in WCC's area was owned by three parties, SSL, an interested party (X) and WCC. Despite being granted planning permission to develop the site SSL decided that it did not want to proceed and negotiated to sell the site to X. WCC entered into a conditional contract to sell its land to X and agreed in principle that it would use its compulsory purchase powers under s226 of the Town and Country Planning Act 1990 to make a CPO to support X's development should the need arise. Later SSL changed its position and both SSL and X applied for and obtained outline permission for a mixed use development. Having agreed to use its CPO powers to facilitate one of the schemes, WCC determined in favour of X as that scheme would enable development of a second nearby site also owned by X, but which X could not develop on its own.

Point of dispute: Whether SSL's application for judicial review of WCC's decision should be allowed. SSL argued that WCC (i) had misapplied s226(1A) which required consideration only of the benefits flowing from the development in question and did not permit consideration of the benefits of development at another unrelated site; and (ii) had predetermined the issue in favour of X by reason of their earlier conditional sale agreement and the "in principle" resolution.

Held: SSL's claim was dismissed.

- (i) The CPO powers under s226 had to be exercised for the purpose of facilitating development of the land to be acquired and if the purpose was to facilitate the development of some other land the conditions of the CPO would not be met and exercise of the power would be unlawful. It was a condition precedent (to the lawful exercise of the power) that WCC should be satisfied that a CPO would facilitate development at the first site irrespective of the benefits at the second site. The benefits that would flow from making a CPO in favour of a particular development had to be considered. In reaching its decision WCC had been entitled to have regard to their wider interests and the overall benefits that each of the two proposals would provide. Although WCC had erred in law by treating the well-being benefits of the second site as being related to the development of the site in question, those errors were not sufficient for the decision to be quashed since WCC had not taken any improper considerations into account when it came to its decision.
- (ii) It was held that WCC had not predetermined the issue. Once SSL changed its mind the earlier resolution fell away and the matter had been reassessed.

Real Property

12

Court of Appeal

Specific performance — whether purchaser had knowledge of extent of title offered by vendor

* EZEKIEL V KOHALI

(2009) PLSCS 33 — Decision given 30.01.09

Facts: The appellant property developers entered into negotiations with the respondent vendors for the purchase of a site comprising two plots of land. In September 1999 the parties entered into a written agreement for the sale and purchase of the site ("the agreement"), but it did not include any express reference to the title that was being offered, nor was any reference made to the status of any representations that had been given. The agreement did not precisely define the extent of the land being sold and when searches were being carried out the appellants realised that the registered titles did not include all of the site, in particular an access strip.

Point of dispute: Whether the appellants' appeal should be allowed against the decision of the court below that they had no defence to the respondents' claim for specific performance of the contract at the agreed price. The issue was whether, before they entered into the agreement, the appellants had known the extent of the respondents' title. The judge in the court below found that they had, which rebutted the implied legal obligation to make good title.

Held: The appeal was dismissed. The appellants had not been able to show that the judge's conclusion on their actual knowledge as to the extent of the respondents' title was wrong. From the evidence of the negotiations between the parties before the agreement the judge could reasonably and properly have inferred that: (i) the appellants had been aware of the extent of the respondents' registered title to the site; (ii) the titles did not cover the entirety of the plots; and (iii) there was no other documentary evidence to prove their title. If a purchaser had actual knowledge of the vendor's title before entering into an open contract, the obligation that the law imported into the contract to make a good title in every respect could be rebutted by proving that the purchaser had entered into the contract with the knowledge of certain defects in the title. It had to be borne in mind that the respondents could make good registered title to the majority of the plots and there was no documentary or oral evidence that anyone else was claiming, or disputing title to, those parts of the plots that were not included in the registered title.

13

Administrative Court

Adverse possession of land forming part of highway

* R (ON THE APPLICATION OF SMITH) V LAND REGISTRY

(2009) PLSCS 57 — Decision given 13.02.09

Facts: S applied to the Land Registry (LR) to register himself as the freehold owner of land on which he had parked some caravans. The land in question formed part of a route that was designated on the definitive map and statement for the area as a byway open to all traffic; as such, it was a highway maintainable at the public expense whose title would be vested by statute in the relevant local council as highway authority.

Point of dispute: Whether S's appeal should be allowed against the decision of the assistant land registrar that as a matter of law title over a highway could not be acquired by adverse possession. LR argued that adverse possession would inevitably amount to the criminal offence of obstructing the highway contrary to s137 of the Highways Act 1980 and that S could not acquire rights through criminal acts.

Held: S's appeal was dismissed. It was only possible to rely on unlawful acts to establish adverse possession in situations where the unlawfulness arose due to lack of consent from the owner, but were the consent to be forthcoming the acts in question would be lawful. Generally, a highways authority could not licence an obstruction of the highway and acts of possession that would need to be relied upon to found a title by adverse possession would necessarily amount to an obstruction. As a matter of law it was impossible to acquire title to a highway or part of one by adverse possession.

Tort

14

Court of Appeal

Damages for nuisance — breach of human rights

** DOBSON V THAMES WATER UTILITIES
(2009) PLSCS 32 — Decision given 29.01.09

Facts: D and others, who lived near a sewage treatment works owned by TWU, some occupying their properties as owners or lessees, others without any legal interest, alleged that odours and mosquitoes from the works caused a nuisance in breach of their human rights under the Human Rights Act 1998, caused by TWU's negligence. It was held in the court below that: (i) damages for nuisance to those with a legal interest would usually be sufficient to give a remedy to their partners and children as well, so that the latter were not entitled to a separate remedy under Article 8 of the European Convention on Human Rights (ECHR); (ii) cases might arise where others without a legal right to occupy might have a separate remedy under Article 8; and (iii) the availability of such a remedy would depend on the facts. Damages would only be awarded under s8(3) of the 1998 Act if, taking into account other alternatives that were available, in this case remedies under the Environmental Protection Act 1990, a complaint to Ofwat under the Water Industry Act 1991 and the availability of a nuisance abatement notice, such damages were necessary to afford the victims just satisfaction.

Point of dispute: Whether D's appeal against the decision of the lower court judge would be allowed. The court had to determine: (i) the proper basis for an award of common law damages for a transitory nuisance where no lasting damage to D's land or loss of capital value had been occasioned; (ii) damages for infringement of Article 8 of the ECHR in a case of transitory nuisance; and (iii) the proper remedy for a non-property owning member of the same household.

Held: The appeal was allowed in part. In *Hunter v Canary Wharf Ltd* the House of Lords established that damages in nuisance were for injury to the property and not to the sensibilities of its occupiers: that principle applied to both transitory nuisance affecting comfort and enjoyment, and nuisance occasioning permanent injury to land and its capital value. A claimant had to show that he had suffered loss of amenity before substantial damages would be awarded. *Canary Wharf* did not provide any support for the view that the person who had the right to sue in nuisance could recover damages on behalf of other occupiers who did not. Where a public authority had been found to have acted unlawfully, the court might award such relief as it considered appropriate and no award would be made unless, taking account of all the circumstances including any other relief or remedy granted in respect of the same act, the court was satisfied that the award was necessary to afford just satisfaction. An award of damages to a person with a proprietary interest would be relevant in deciding whether an award under Article 8 to a person who lived in the same house but who had no proprietary interest was necessary in order to afford just satisfaction. A common law award of damages to a property owner would normally constitute just satisfaction for the purposes of s8(3) of the 1998 Act, without the necessity for an additional award.

General

15

License for street trading — whether car park on private land constituted a street — Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

* WEST BERKSHIRE DISTRICT COUNCIL V PAINE
(2009) PLSCS 44 — Decision given 05.02.09

Facts: P operated a van selling food and drink to people who worked in a business village from the car park of the village. WBDC brought proceedings in the magistrates' court alleging that P was engaging in street trading without authorisation contrary to para 10(1)(b) of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982.

Point of dispute: Whether WBDC's appeal should be allowed against the magistrates' finding that the area from which P operated his van was not an area to which the public had access, and accordingly was not a street within para 1(1)(a) of Schedule 4 to the 1982 Act. The question was whether the magistrates had correctly interpreted the extended definition of the word "street" in para (1)(a) as the authorities they had considered dealt with the meaning of "public place" under the Road Traffic Act 1988, rather than the meaning of "street" within the 1982 Act. WBDC argued that consideration should have been given to the question of whether the public could potentially access the area on payment of a fee.

Held: WBDC's appeal was allowed. The magistrates' interpretation of the word "street" for the purposes of para 1(1)(a) had been incorrect, and in particular they had been wrong not to address the question of access without payment. The purpose of the 1982 Act legislation was not only to assess the suitability of sellers operating without premises, but also the nuisance or obstruction that they might cause — for that reason the "street" was widely defined in para 1(1)(a) and it was unnecessary to limit that definition by introducing the concept of public place for other definitions in other legislation. Whether premises were private property was immaterial for the purpose of considering what constituted a street under para 1(1)(a). It was important not to confuse a public space with "other areas to which the public had access without payment". The key question was whether members of the public were entitled to go to a place without paying and not whether they actually did so.

16

CABE Publication

Shape the Future: corporate strategy 2008/09 — 2010/11

This document is CABE's three-year corporate strategy setting out the organisation's plans and priorities over this period, and how its success will be measured. Many important urban design and public space projects will take shape in the next three years, including 3,500 new planned secondary schools and the London 2012 Olympics and this paper emphasises the importance of choosing architecture and design that works, is inspirational and sustainable.

<http://www.cabe.org.uk/AssetLibrary/12747.pdf>

17

British Council of Offices Report

Green Incentives

This report contains guidance on a wide range of green incentives and assesses their impact on the property and construction sectors. It reviews current taxes, regulations and market-based incentive systems that impact on the office sector. It analyses their impact in terms of their effect on the office sector.

(Link not available as it is not possible to download this document for free)

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London (West End)

Hugh Bullock Tel. 020 7333 6302
hbullock@geraldev.com

London (City)

Simon Prichard Tel. 020 7489 8900
sprichard@geraldev.com

Birmingham

Chris Kershaw Tel. 0121 616 4800
ckershaw@geraldev.com

Cardiff

Joseph Funtek Tel. 029 2038 8044
jfuntek@geraldev.com

Glasgow

Ken Thurtell Tel. 0141 221 6397
kthurtell@geraldev.com

Leeds

Mike Roberts Tel. 0113 244 0708
mroberts@geraldev.com

Manchester

Mike Roocroft Tel. 0161 830 7070
mroocroft@geraldev.com

Milton Keynes

Simon Dye Tel. 01908 685950
sdye@geraldev.com

West Malling

Lisa Laws Tel. 01732 229423
llaws@geraldev.com



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

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www.egi.co.uk
focus.focusnet.co.uk
[www.newLawonline.com](http://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@geraldev.com

Compensation & Compulsory Purchase

Tony Chase Tel. 020 7333 6282
tchase@geraldev.com

Building Consultancy

Michael Robinson Tel. 0161 830 7091
mrobinson@geraldev.com

Environment & Contamination

Keith Norman Tel. 020 7333 6346
knorman@geraldev.com

Landlord & Tenant

Graham Foster Tel. 020 7653 6832
gfoster@geraldev.com

Leasehold Reform

Julian Clark Tel. 020 7333 6361
jclark@geraldev.com

Minerals & Waste Management

Philip King Tel. 0113 244 0708
pking@geraldev.com

Planning & Development

Hugh Bullock Tel. 020 7333 6302
hbullock@geraldev.com

Rating

Jerry Schurder Tel. 020 7333 6324
jschurder@geraldev.com

Real Property

Annette Lanaghan Tel. 020 7333 6419
alanaghan@geraldev.com

Valuation

Mark Fox Tel. 020 7333 6273
mfox@geraldev.com

Gerald Eve Research

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For more information on our research services please contact:

Robert Fourt
Partner
Tel. 020 7333 6202
rfourt@geraldev.com

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Legal &
Parliamentary

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evebrief

SCOTLAND

Planning

01

Statutory Instrument

SSI 2009/34 The Town and Country Planning (General Permitted Development) (Domestic Microgeneration) (Scotland) Amendment Order 2009

This Order amends Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. Schedule 1 confers permitted development rights in respect of certain development and, where such rights apply, no specific application for planning permission is needed. This Order comes into force on 12.03.09 and extends permitted development rights to certain individual microgeneration technologies.

http://www.opsi.gov.uk/legislation/scotland/ssi2009/ssi_20090034_en_1

02

Statutory Instrument

SSI 2009/51 The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009

These Regulations, which come into force on 06.04.09, describe and assign classes of development to the categories of major and local developments.

http://www.opsi.gov.uk/legislation/scotland/ssi2009/pdf/ssi_20090051_en.pdf

03

Statutory Instrument

SSI 2009/52 The Town and Country Planning (Amount of Fixed Penalty) (Scotland) Regulations 2009

These Regulations prescribe the amount of the penalty payable under a fixed penalty notice served under s136A(1) (non-compliance with enforcement notices) or s145A(1) (breach of condition notices) of the Town and Country Planning (Scotland) Act 1997. The amount prescribed for the purposes of s136A(4) of the Act is £2,000 and for s145A(4) it is £300.

http://www.opsi.gov.uk/legislation/scotland/ssi2009/pdf/ssi_20090052_en.pdf

04

Statutory Instrument

SSI 2009/53 The Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009

These Regulations prescribe the grounds on which a planning authority may decline to modify a proposed local development plan as recommended in a report by a person appointed following the completion of an examination into a proposed local plan under s19(3) of the Town and Country Planning (Scotland) Act 1997.

http://www.opsi.gov.uk/legislation/scotland/ssi2009/pdf/ssi_20090053_en.pdf

Rating

05

Statutory Instrument

SSI 2009/42 The Non-Domestic Rates (Levying) (Scotland) Regulations 2009

These Regulations come into force on 01.04.09 and provide for the amount payable in certain circumstances as the non-domestic rates in respect of non-domestic subjects in Scotland for the financial year 2009-10. (The non-domestic rate for subjects not covered by these Regulations is fixed by Order made under the Local Government (Scotland) Act 1975). Regulation 3 provides for a general reduction in rates for a ratepayer of non-domestic subjects with a rateable value of £15,000 or less on a sliding scale of between 25% and 100%.

http://www.opsi.gov.uk/legislation/scotland/ssi2009/pdf/ssi_20090042_en.pdf

Housing

06

Scottish Government News Release

Energy efficient housing prize

The Scottish Government has announced a new £1m annual prize fund to inspire innovative ways of improving the energy efficiency of Scotland's housing sector. The awards will focus on innovation and design solutions to encourage the development of low carbon buildings, with a particular emphasis on housing.

WALES

Housing

07

Welsh Assembly Government Consultation

Sustainable Homes: A National Housing Strategy for Wales

Deadline for Comments: 01.05.09

The National Housing Strategy sets out the Government's long term vision for housing in Wales. It is structured around six principles:

- providing the right mix of housing;
- using housing as a catalyst to improve lives;
- strengthening communities;
- radically reducing the ecological footprint;
- ensuring better services; and
- delivering together

These principles form the main chapter headings of the Strategy.

<http://wales.gov.uk/docs/desh/consultation/090128housingstrategyen.pdf?lang=en>

NORTHERN IRELAND

Rating

08

Statutory Rule of Northern Ireland

SR 2009/31 The Rates (Regional Rates) Order (Northern Ireland) 2009

This Order fixes the amounts of the regional rates for the year ending 31.03.10. The amount of the regional rate to be levied on the rateable net annual values of hereditaments is 29.89 pence in the pound and the amount of the regional rate to be levied on the rateable capital values of hereditaments is 0.3608 pence in the pound.

http://www.opsi.gov.uk/sr/sr2009/pdf/nisr_20090031_en.pdf