EVEBRIEF

Legal & Parliamentary

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FESTIVE THOUGHTS!

Peter Dines
Editor

First may I wish that your home be filled with the joy of the Christmas season, and best wishes for a productive, positive New Year.

With this wish in mind I note that at Item 01 we report on the Autumn Statement and at Item 11 the latest consultation on changes to the National Planning Policy Framework (NPPF). These are not entirely unrelated as the NPPF will be one avenue for the delivery of the objectives of the Autumn Statement.

The consultation suggests more flexibility in the provision of affordable housing models to increase overall delivery of low cost homes, in particular 'starter homes'. It also asks us to look at increasing development at 'Transportation Hub' locations and on brownfield, sustainable and Green Belt sites. These measures could help tackle the lack of housing delivery which undermines our ambitions for long term economic security.

At item 07 we report on a Court of Appeal judgment which provides some rebalancing of the implications of the Barnwell Manor judgment. The case relates to a planning permission which was granted on appeal for the erection of a single turbine at Towcester. The High Court quashed the permission because the inspector failed to demonstrate in the reasons he gave that he had complied with his duty under s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to give special regard to the desirability of preserving a listed building or its setting. The Judge stated that he was bound by the earlier Barnwell decision. The Court of Appeal held that the decision in Barnwell did not require a decision-maker to demonstrate compliance with s66(1). The onus was on a claimant (Third Party) to indicate that there is a positive indication that the decision-maker has not given the required 'considerable importance and weight' to the importance of conserving a heritage asset. The Court of Appeal held that, if an inspector refers to NPPF paragraph 134 (the conclusion of less than substantial harm), the appropriate inference is that he has taken properly into account all of the relevant paragraphs of the NPPF and has complied with the s66(1) duty.

And lastly, if you are responsible for the real estate costs of running your business and if you are considering a New Year's resolution could I suggest that now is the time to consider the potential increases in your future business rates liability. Whilst the new list does not come into play until 2017, strategies developed now will allow you to budget and forecast more accurately. To find out further information and how Gerald Eve can support your business in the lead-up to the 2017 Revaluation please visit our dedicated website **www.mybusinessrates.com**.

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AUTUMN STATEMENT

01 Spending Review and Autumn Statement 2015 – 25.11.15

The following are of interest to the property industry:

- From 01.04.16 people purchasing additional properties such as buy-to-let properties and second homes will pay an extra 3% stamp duty on all bands. Money raised from the tax will be used to help people who want to buy their first homes;
- Planning reforms including releasing land for 160,000 homes and designating commercial land for residential use;
- 400,000 new affordable homes;
- Extension of Right to Buy to housing association homes;
- London Help to Buy – from early 2016 a new equity loan scheme offering buyers who have a 5% deposit interest-free loans equivalent to up to 40% of the value of the property. The current scheme offers only 20%;
- Councils are to be given more control over how local taxes are spent. From 2020 they will be able to keep money raised from business rates to spend on local services;
- Scotland, Wales and Northern Ireland are to be given more money to spend on infrastructure projects, 14% increase for Scotland, 16% for Wales and 12% for Northern Ireland; and
- By 2021 £2.1 billion will be allocated for over 1,500 flood defence schemes across the country.

https://www.gov.uk/government/publications/spending-review-and-autumn-statement-2015-documents

LANDLORD & TENANT

02 Upper Tribunal: Lands Chamber

Service charge liability

*PARKINSON V KEENEY CONSTRUCTION LTD
[2015] PLSCS 335 – Decision given 16.11.15

Facts: In 2009 the appellant, P, purchased a flat in a mansion block in London E9. The block was one of three which had originally belonged to one freeholder, but the freehold ownership was split up and the respondent, KC, now owned the freehold of the block in which P's flat was situated. The flats were let on long leases providing for the payment of a service charge, but the costs were referable to the upkeep of all three blocks and in some cases the lessee's share was calculated by reference to the rateable value. At the time when P purchased his flat, the LVT was determining an application by KC under s35 of the Landlord and Tenant Act 1987 to vary the service charge provisions in relation to its block in order (i) to vary the definition of 'Building' so as to refer to its block only, and (ii) to delete the references to rateable values and substitute internal floor areas instead. That application was allowed which had the effect of increasing the service charge liability of some flats, including P's.

Point of dispute: Whether to allow P's appeal against the decision of the first tier tribunal (FTT) that he was not entitled to any compensation under s38(10) of the 1987 Act. The FTT held that he had suffered no loss or disadvantage as a result of the variation in circumstances since he must have been aware when he contracted to purchase his flat that his service charge liability might be increased.

Held: The appeal was dismissed. The 1987 Act contained a mechanism for rectifying unsatisfactory leases, but it was unlikely that parliament would have intended the cure to be effectively nullified by an award of compensation. It was to the advantage of both lessor and lessees that leases should be well drafted and make satisfactory provision with respect to the payment of service charges. The FTT had been entitled to conclude that P must have been aware, when he exchanged contracts for the purchase of his flat, that the service charge might be increased since he had been put on notice that there was an ongoing case before the LVT and that the percentage for his flat might well be increased. P had purchased the flat knowing about the service charge problems, knowing that the percentage attributable to his flat might be increased, knowing about the poor condition of the block and knowing that if amendments were made to the lease he would have to contribute to the costs of the major works in accordance with the new higher percentage.

03 CLG consultation response

Tackling rogue landlords and improving the private rental sector

This consultation, which ended on 27.08.15, covered a range of measures designed to help improve standards in the private rented sector. 500 responses were received from key stakeholders including local authorities and charities. This publication presents their views and outlines the government's response to the findings of the technical discussion document.

https://www.gov.uk/government/consultations/tackling-rogue-landlords-and-improving-the-private-rental-sector

If you require advice on landlord & tenant issues, contact Graham Foster on Tel. +44 (0)20 7653 6832 gfoster@geraldeve.com

PLANNING

04 Court of Appeal

Agricultural dwelling – occupancy condition – appellant running farm at a loss – whether her husband and children were 'dependants' – whether appellant entitled to lawful use certificate for use of the dwelling without complying with the occupancy condition

*SHORTT V SEC OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT
[2015] PLSCS 325 – Decision given 18.11.15

Facts: The appellants, S, lived on a farm with their two children. The planning permission for the dwelling was subject to a condition limiting occupation to persons employed in agriculture and their dependants. Mr S was a successful businessman and the farm was entirely run by Mrs S, who kept a breeding herd of pedigree cattle. For a number of years the farm had run at a loss. S applied to the lpa for a certificate of lawfulness of use or development in respect of the continued use of the dwelling without compliance with the occupancy condition in the planning permission. Their argument was that although Mrs S was an agricultural worker, Mr S and their children could not be regarded as her dependants since Mrs S did not contribute financially to their support; since the occupancy condition had not been complied with for ten years it was immune from enforcement.

Point of dispute: Whether to allow S's appeal against the ruling of the judge in the court below, upholding the inspector's decision, that the word 'dependant' did not just mean financially dependent but it could be construed in terms of non-monetary benefits. This meant that the occupancy condition had been met throughout the relevant period and was still capable of enforcement. S argued that a planning permission subject to an associated agricultural occupancy condition was linked to a requirement that the related agricultural enterprise should be economically viable and that this financial requirement affected who could be regarded as 'dependant'.

Held: The appeal was dismissed. The word 'dependants' could also refer to relationships of non-financial dependency and emotional support and care may be as important as financial considerations. The occupancy condition attached to S's dwelling did not on its face contain any requirement regarding financial dependency on the agricultural dwelling – the word 'dependants' in the condition was intended to include a husband or wife without financial dependency. The agricultural occupancy condition did not tie the occupation to any particular agricultural enterprise, or impose any requirement as to the continuing profitability of the business in which the agricultural worker was employed. The underlying policy supported the interpretation of 'dependants' in the condition as encompassing a spouse and children living as a family with the agricultural worker, irrespective of that worker's contribution to the family finances.

05 Court of Appeal

Planning permission granted for wind turbine on area of land just outside the designated Broads area – s17A Norfolk and Suffolk Broads Act 1988 – whether decision contrary to purpose of preserving and enhancing natural beauty of the Broads

*HOWELL V SEC OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT
[2015] PLSCS 326 – Decision given 19.11.15

Facts: The appellant, H, who lived just outside the designated Broads area objected to a developer's proposal to erect a wind turbine near to his property on a site which was also just outside the designated Broads area, as defined in the Norfolk and Suffolk Broads Act 1988 ('the 1988 Act'). The local planning authority (lpa) refused permission for the turbine, but after a public inquiry that decision was overruled by the Sec of State's inspector who considered the following:

- the effect of s17A of the 1988 Act so far as it required a relevant authority to have regard to the purpose of preserving and enhancing the natural beauty of the Broads – he found that the proposed turbine would not harm the natural beauty of the designated Broads landscape because the area nearest to it had the same character as the neighbouring undesignated area;
- the benefits of the proposal – he found that the turbine would bring significant benefits in terms of renewable energy; and
- noise levels from the turbine – although these would reach the recommended limits at H's property they would not exceed them.

The inspector recommended that permission for the development be granted, subject to a condition as to noise limits.

Point of dispute: Whether to allow H's challenge to the inspector's decision. At first instance his claim was dismissed and H appealed. H argued that:

i. the inspector could not rationally conclude that there would be no harm to the natural beauty of the Broads in circumstances where he had also found that views out of certain parts of the Broads area would be affected by an addition to the largely undeveloped skyline outside the designated area;

ii. the inspector had erred in his approach to conflicting planning policies by setting aside a core strategy policy on conservation of the landscape in the area in favour of 'lower order' development management policies;

iii. the inspector had erred in his approach to assessing the benefits of the proposed turbine; and

iv. the noise condition would not be effective.

Held: The appeal was dismissed.

i. The inspector had recognised that although the area of the Broads nearest to the turbine site did not have a Broads character it still came within the scope of s17A. He had properly taken account national policy guidance in the National Policy Statement for Energy, which advised that even if a proposed project would be visible from within a designated area that should not in itself be a reason for refusing consent. The fact that the area nearest to the turbine site was described as being 'not of Broads character' was relevant when judging whether that area had such a degree of sensitivity that the Broads' natural beauty would be materially harmed by a new visible feature located beyond the designated area. The inspector had been entitled to conclude as a matter of planning judgment that it would not be so harmed and this conclusion was not irrational.

ii. Where policies were not fully consistent, it was for the decision-maker to determine which policy should be given greater weight in relation to a particular decision. The inspector had taken a rational approach in preferring the policy which was the more specific and recent and which made a provision for a balancing exercise as between harm and benefits.

iii. The inspector had not exaggerated the benefits of the wind turbine proposal.

iv. The inspector had not erred with regard to the noise condition. Where the condition had been agreed between the developer and the lpa and all parties at the inquiry had been given the opportunity to discuss conditions the inspector had been entitled to take the view that the lpa was capable of enforcing the condition.

06 Court of Appeal

Wind turbine proposal – screening opinion stated no EIA required – whether adequate reasons for opinion – whether respondents complying with duty to respond to request for reasons

*JEDWELL V DENBIGHSHIRE COUNTY COUNCIL
[2015] PLSCS 344 – Decision given 02.12.15

Facts: In July 2013 the respondent council, DCC, granted planning consent for the erection of two tall wind turbines. Before granting permission DCC issued a screening opinion prepared by a planning officer which concluded that no environmental impact assessment (EIA) was required under the Town and Country Planning (Environmental Impact Assessment) Regulations 1999. The appellant, J, contended that an EIA should have been required and brought proceedings to quash the permission. DCC's planning officer prepared a witness statement expanding on her reasons for the negative screening opinion but during the trial the judge did not allow J to cross-examine the officer and found that there was no inconsistency between the planning officer's evidence and the contemporaneous documentation.

Point of dispute: Whether to allow J's appeal against the decision of the judge in the court below who dismissed his claim, concluding that while the original screening opinion was inadequate, the reasons subsequently explained in the witness statement were sufficient to enable DCC rationally to conclude that no EIA was required.

Held: The appeal was allowed.

i. Although the 1999 Regulations did not themselves require reasons for a decision that no EIA was required, as a matter of EU law there was an obligation to give reasons for a negative screening opinion. The reasons had to be sufficient, when combined if necessary by additional information provided to interested parties at their request, to enable them to decide whether to bring proceedings to challenge the decision.

ii. Whether adequate reasons had been given would depend on the facts; in this case DCC's initial screening opinion had been inadequate since there was no reasoning given for the conclusion reached. J had made a valid request for further information in the form of his solicitor's pre-action protocol correspondence and at the date when the claim form was issued DCC was in breach of their legal duty to give adequate reasons for its decision following such a request. The substance of the planning officer's witness statement had not been disclosed to J before the claim was brought.

iii. In the circumstances of the case, the judge should have permitted the planning officer to be cross-examined. There was an important question of fact here as to whether the planning officer's evidence was an *ex post facto* justification of the decision to issue the negative screening opinion or an account of her actual reasoning process at the time. The court, not the lpa, had to decide on this issue and it was one of the rare cases when cross-examination was necessary. The order could not stand and the matter was remitted to the Administrative Court for redetermination.

07 Court of Appeal

Grant of planning permission for wind turbine – proper approach to consideration of effect on setting of listed buildings – s66(1) Planning (Listed Buildings and Conservation Areas) Act 1990

**JONES V MORDUE AND OTHERS
[2015] PLSCS – Decision given 03.12.15

Facts: The appellant, J, sought planning permission for a single wind turbine on his farm near Towcester, Northants. The turbine would impinge to a certain extent on views of a nearby Grade II* listed church and, to a lesser extent, on the setting of another listed church and a listed manor house. Listed buildings and their settings were accorded special protection under s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Listed Buildings Act') which meant that the inspector had to give considerable weight to the harm that could be caused to them. In arriving at his decision the inspector referred to local plan policy EV12 and para 134 of the NPPF, both of which were concerned with heritage assets. Finding that the adverse effect of the development was limited to a small area and that no heritage asset would suffer substantial harm the inspector came to the conclusion that the harm was outweighed by the environmental benefits of the development and granted permission. M, the chairperson of a group of local objectors, appealed against the inspector's decision. The deputy judge in the High Court allowed the appeal finding that while M could not show that the inspector had failed to give considerable weight to any harm to the setting of the listed buildings, the decision was nonetheless defective since the reasons he had given did not demonstrate compliance with s66.

Point of dispute: Whether to allow J's appeal against the deputy judge's decision. J argued that the judge had applied too strict a requirement in relation to reasons for a decision involving s66(1).

Held: The appeal was allowed.

- The deputy judge had erred so far as he had considered that the onus was on the decision-maker positively to demonstrate by the reasons given that considerable weight had been given to the desirability of preserving the setting of the relevant listed buildings. The approach to reasons under s66(1) should be no more onerous than the general position – ie. the claimant had to satisfy the court that the shortcomings in the stated reasons were such as to raise a substantial doubt as to whether the decision was based on relevant grounds and free from any flaw in the decision-making process.
- It was not helpful to look at the reasons given in other decisions involving s66 and to compare them with those given in the present case. Reasons for planning decisions had to be read as a whole in their proper context.
- In this case the inspector's reasoning did not give rise to any substantial doubt as to whether he had erred in law. There were express references to the relevant provisions of planning policies and the NPPF which showed that he had had the duty under s66(1) of the Listed Buildings Act in mind and had complied with it. The s66(1) duty was reflected in policy EV12 of the local plan, while para 134 was part of a series of paragraphs in the NPPF which laid down an approach corresponding with the duty in s66(1).
- Overall the inspector had not erred in his approach to s66(1).

08 Court of Appeal

Enforcement action – deliberate concealment of breach of planning control – whether possible to bring enforcement action after expiry of four-year limitation period in s171B of the Town and Country Planning Act 1990 where appellants deliberately concealed breach

*BONSALL V SEC OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT; JACKSON V SEC OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT
[2015] PLSCS 350 – Decision given 08.12.15

Facts: In each of these cases a barn had originally been built with planning permission but later, in breach of planning control, the appellant had converted it into a dwelling and used it for residential purposes. In each case an enforcement notice was issued after the appellant, relying on the expiry of the four year limitation period for enforcement, applied unsuccessfully for a certificate of lawfulness of use of the building as a dwelling under s191 of the TCPA 1990. In 2011 the Supreme Court, in the case of *Welwyn Hatfield Borough Council v Sec of State for Communities and Local Government* had established the principle that deliberate concealment of a breach of planning control prevented reliance of the four year limitation period for enforcement. Shortly after this case was decided parliament inserted new ss171BA – 171BC into the 1990 Act whereby in a case of deliberate concealment a local planning authority could apply to the magistrates' court for a planning enforcement order (PEO) permitting enforcement action outside the time limits in s171B.

Point of dispute: Whether to allow the appellants' appeal against the High Court decisions which upheld the planning inspector's decision to reject the appellant's challenge to the enforcement notice. In the second case, the High Court held that the enactment of the PEO provisions did not displace the *Welwyn* principle or mean that concealment could only be dealt with under that code.

Held: The appeal was dismissed. There was nothing in the new sections of the 1990 Act to suggest a legislative intention to change the meaning of s171B as interpreted by the Supreme Court. Nothing that was said in *Welwyn* suggested that it considered itself to be applying a short-term fix which would fall away once ss171BA – 171BC were introduced. Maintaining the *Welwyn* principle did not have the effect of enabling the PEO procedure to be sidestepped or ignored. The PEO procedure was narrower than *Welwyn* since it applied only where an apparent breach of planning control had been deliberately concealed, whereas the *Welwyn* principle extended to cases of dishonesty or criminality, such as bribery or coercion and applied only to particularly serious cases. In some cases the PEO procedure would be the better option, in others *Welwyn*. By enacting the PEO provisions parliament had not intended to remove the effect of the decision in *Welwyn*. The PEO was included in the Localism Bill at the time when it was not known what approach the Supreme Court would adopt to s171B, but, following the decision, the PEO process was left in the Bill and subsequently enacted as an alternative and additional, not an exclusive, means of permitting enforcement outside the normal time limit in cases of deliberate concealment.

09 Planning Court

Certificate of lawful use or development – application for judicial review of certificates issued by lpa for extension to property

*GOVERNMENT OF THE REPUBLIC OF FRANCE V ROYAL BOROUGH OF KENSINGTON AND CHELSEA [2015] PLSCS 338 – Decision given 27.11 15

Facts: X owned a lease of 10, Kensington Palace Gardens, a large four storey Grade II listed building. The freehold was owned by the Crown Estate Commissioners. The claimant held a Crown Estate lease of 11, Kensington Palace Gardens which was occupied by the French Ambassador as her official residence. The claimant applied for judicial review of two certificates issued by RBKC to X: (i) under s26H of the Planning (Listed Buildings and Conservation Areas) Act 1990 that works authorised by listed building consents for the renovation, alteration and extension to the existing dwelling including basement excavation and landscaping works might lawfully be carried out; and (ii) under s192 of the Town and Country Planning Act 1990 that similar development authorised by planning permission might lawfully be carried out. The claimant also sought a declaration that RBKC had acted unlawfully in failing to register on its planning register and/or make available for inspection by the public the s192 certificate.

Point of dispute: Whether to allow the claim. The claimant contended that:

i. The certificates issued under ss192 and 26H were ultra vires because they purported to certify the lawfulness of works already carried out whereas those provisions could only be used to certify the lawfulness of proposed works that had yet to be carried out.

ii. RBKC should have entered the s192 certificate on its planning register. RBKC accepted that there had been an administrative error but argued that the delegated decision had been published from around the time of the decision to grant the s192 certificate.

Held: The application was dismissed. The declaration was granted.

i. The challenge in the present case proceeded on the basis that s26H might be used in order to obtain a certificate whether works proposed to be carried out to a listed building were authorised by a listed building consent previously granted.

ii. The issue of whether works of implementation were referable to a planning consent was an objective question of law. It was irrelevant to consider the motives or purposes of a developer in carrying out the works of implementation.

iii. The claimant accepted that failure to enter the s192 certificate on the planning register could not found an application to quash the certificate and it only sought declaratory relief, which the court granted.

iv. The s26H certificate had gone outside the ambit of the application before RBKC by confirming that a 2008 listed building consent had been lawfully implemented. That error could be corrected by deleting the references to the 2008 listed building consent from the s26H certificate.

10 Administrative Court

Development of estate – consultation with residents – council deciding to drop certain options – whether breach of s105 Housing Act 1985 and common law requirements for lawful consultation

*BOKROSOVA V LAMBETH LONDON BOROUGH COUNCIL
[2015] PLSCS 332 – Decision given 24.11.15

Facts: The Cabinet of LLBC approved the Lambeth Estate Regeneration Programme (LERP), the aim of which was to improve existing residents' housing and provide new homes at council rent levels. LLBC commenced a consultation process with residents of the estate by setting up sub-groups to consider resident management options and a series of workshops to obtain the residents' views on the future of the estate. LLBC decided that five options should be consulted on: options 1-3 related to refurbishment; and options 4 and 5 were part and full demolition. Before the sub-groups' reports had been fed back to LLBC options 1-3 had been removed by LLBC.

Point of dispute: Whether to allow B's application for judicial review of the decision to drop options 1-3. B contended that the decision was unlawful because: (i) it was in breach of s105 of the Housing Act 1985 and the common law requirements for a lawful consultation – the residents' views had not been taken into account; and (ii) in breach of the general requirements of lawful consultation, LLBC had decided not to proceed with options 1-3 because they were not affordable.

Held: The application was granted.

i. Section 105 was an obligation to consult. Consultation had to take place when proposals were still at the formative stage; reasons for the proposals had to be included so that consultees could consider them and respond to them intelligently; enough time had to be given for that; consultation responses had to be taken conscientiously into account when the decision was taken.

ii. The decision to drop options 1-3 reneged on the detailed s105 arrangements for consultation which had been set up in this case. The court was not satisfied that circumstances had changed enough to entitle LLBC to stop consulting on options 1-3 contrary to the terms of the s105 arrangements it had published. LLBC had acted unlawfully in deciding to remove options 1-3.

11 CLG Consultation

Community infrastructure levy review: questionnaire
Deadline for responses: 15.01.16

This document is the community infrastructure levy review's request for written submissions to inform their work. The review is assessing the extent to which CIL does or can provide an effective mechanism for funding infrastructure, as well as recommending changes that would improve its operation in support of the government's wider housing and growth objectives.

https://www.gov.uk/government/consultations/community-infrastructure-levy-review-questionnaire

12 CLG Consultation

National Planning Policy: consultation on proposed changes
Deadline for Comments: 25.01.16

This consultation seeks views on proposed changes to National Planning Policy in the following areas:

- Broadening the definition of affordable housing to expand the range of low cost housing opportunities for those aspiring to own their own home (paragraphs 6-12);
- Increasing residential density around commuter hubs, to make more efficient use of land in suitable locations (paragraphs 13-18);
- Supporting sustainable new settlements, development on brownfield land and small sites, and delivery of housing agreed in Local Plans (paragraphs 19-33);
- Supporting delivery of starter homes (paragraphs 34-54); and
- Transitional arrangements (paragraphs 55-58).

https://www.gov.uk/government/consultations/national-planning-policy-consultation-on-proposed-changes

13 British Property Federation (BPF) Publication

Annual Planning Survey 2015

This report is an independent assessment of the state of the planning system in the UK. Its findings are based on the Annual Planning Survey 2015 and a review of major planning applications in Greater London, Greater Manchester and Bristol and the surrounding area during 2014-15. The Annual Planning Survey started four years ago to assess the impact of the then new NPPF on planning applications. The results of the latest survey indicate that while the economy is recovering and buyers and occupiers are calling for more development activity, the actual numbers of major planning applications determined has fallen. The time taken from submission to determination continues to lengthen and this report argues that applicants are becoming increasingly dissatisfied with the planning process as local authorities struggle to keep up with demand.

http://www.bpf.org.uk/sites/default/files/resources/Annual-Planning-Survey-Report.pdf

14 CLG Publication

Neighbourhood planning and local planning: service redesign and capacity building – prospectus
Deadline for applications: 18.12.15

The government has announced that it is to make available £600,000 resource grant funding in the 2015-16 financial year to be awarded to a number of pilot authorities to help them support neighbourhood planning.

https://www.gov.uk/government/publications/neighbourhood-planning-and-local-planning-service-redesign-and-capacity-building

15 Historic England Briefing Note

Briefing Note on National Listed Building Consent Orders

This document, which contains information about national Listed Building Consent Orders (LBCO), is aimed at lpas, heritage practitioners and owners of listed buildings who may in due course be affected by an LBCO, but it does not contain advice about their setting up or operation which is the responsibility of the Sec of State.

http://www.historicengland.org.uk/images-books/publications/notes-listed-building-consent-orders/

16 Historic England Good Practice Advice Note

Drawing up a Local Listed Building Consent Order

This Note contains information to assist local authorities, planning and other consultants, owners, applicants and other interested parties in implementing historic environment policy in the National Planning Policy Framework (NPPF) and related guidance contained in the National Planning Practice Guide (PPG).

http://www.historicengland.org.uk/images-books/publications/eh-good-practice-advice-note-drawing-up-local-listed-building-consent-order/

17 Historic England Advice Note

Setting up a Listed Building Heritage Partnership Agreement

Listed Building Heritage Partnership Agreements were introduced by s60 of the Enterprise and Regulatory Reform Act 2013. They allow the owner of a listed building or buildings and the local planning authority to agree which necessary works to the building are routine and regular, and which if done correctly will not harm its special interest. The agreement grants listed building consent for these works for an extended period of time and they can go ahead whenever convenient. This note provides information to assist local authorities, planning and other consultants, owners, applicants and other interested parties in implementing historic environment policy in the NPPF and related guidance contained in the PPG.

http://www.historicengland.org.uk/images-books/publications/eh-good-practice-advice-note-drawing-up-listed-building-heritage-partnership-agreement

If you require advice on planning & development issues, contact Hugh Bullock on Tel. +44 (0)20 7333 6302 hbullock@geraldeve.com

RATING

18 Report by Regeneris Consulting Ltd for British Property Federation, British Council for Office and British Council of Shopping Centres

Business Rates: Who Pays and Why it Matters

Concerns about the operation of the business rates system have led to a Treasury-led review being announced earlier this year and in the recent Autumn Statement it was stated that by 2020 business rates would become a fully devolved local tax. This report examines the question of 'incidence' of business rates ie whether it is the occupier who is paying this tax, or whether it is reflected in higher or lower rents with the ultimate incidence falling on the landlord/landowner. This research examined existing studies and carried out a new analysis of a large sample of data on rates paid and rental values over the period 1990-2010. Broadly, its conclusions are:

- in the medium to longer term changes in rates paid are reflected in corresponding adjustments in rental values;
- there is clearly a lagged relationship between rate changes and the feed through to property rentals – the effect is largely passed on from occupiers to landlords after three to four years;
- the relationship between business rates and rents is stronger in regional markets than in London;
- the relationship between business rates and rent appears to have broken down after 2008. This is probably explained by the fact that during this period there have been unprecedented changes in rental values, rents paid and capital values, especially in the retail sector, and because there has been no revaluation since 2010 which means that rateable values are still based on 2008, pre-recession values.

If you require advice on rating issues, contact Jerry Schurder on Tel. +44 (0)20 7333 6324 jschurder@geraldeve.com

http://www.bpf.org.uk/sites/default/files/resources/Who%20pays%20business%20rates%20research%20%28BPF-BCO-BCSC%29%20Final.pdf?utm_source=update&utm_campaign=0750b4468c-BPF+Update+-+10th+December&utm_medium=email&utm_term=0_0134d0d4b0-0750b4468c-246675113&mc_cid=0750b4468c&mc_eid=01069531d7

LEASEHOLD REFORM

19 High Court

Leasehold enfranchisement – right to acquire freehold – meaning of 'house' – s2(2) Leasehold Reform Act 1967

*WEST END INVESTMENTS (COWELL GROUP) LTD V BIRCHLEA LTD
[2015] PLSCS 336 – Decision given 27.11.15

Facts: The respondent, B, was the tenant of a property known as 3 Grosvenor Gardens Mews East, London SW1. Adjoining the property was a much taller house comprising several more storeys. The leases of the property and the adjoining property each included 'one half severed vertically of party walls dividing such building from adjoining premises'. B obtained a declaration that it was entitled to acquire the freehold of the property under part 1 of the Leasehold Reform Act 1967, the judge finding that it was self-contained and satisfied the requirements of s2(1) of the Act.

Point of dispute: Whether to allow the landlord's appeal against the judge's decision. The landlord contended that the property was excluded from being a 'house' within the meaning of the 1967 Act by virtue of s2(2) which provided that the relevant parts of the Act did not apply to a 'house which is not structurally detached and of which a material part lies above or below a part of the structure not comprised in the house'.

Held: The appeal was dismissed.

i. Section 2 of the 1967 Act had to be interpreted having regard to the policy which underlay it.

ii. The Act intended to allow for the enfranchisement of houses, including terraced houses, but not flats. Section 2(1)(b) provided that where a building was divided vertically the building as a whole was not a house. However, not every division was entirely vertical, or entirely horizontal and s2(2) dealt with mixed cases like this and the exclusion was confined to cases of structural attachment.

iii. Section 2(2) was concerned with cases where there was a kink or dog-leg in the dividing line in units of a building. If only a trivial or unimportant part of the house overhung or underhung the structure to which it was attached that should not exclude a house from enfranchisement.

iv. Section 2(2) was not engaged in this case: there was no kink or dog-leg – a single vertical wall divided the house from the adjoining property; it was not a mixed case of the kind which s2(2) was intended to cover. It would be inconsistent with the purposes of the 1967 Act to allow the legal division of a party wall to disqualify a house from enfranchisement.

If you require advice on leasehold reform issues, contact Julian Clark on Tel. +44 (0)20 7333 6361 jclark@geraldeve.com

HOUSING

20 Cabinet Office review consultation

Cutting Red Tape: Sector review House Building: Identifying barriers to growth and productivity in the house building sector
Review closes for comment on 13.01.16

The Cutting Red Tape review of house building is a government review led by the Cabinet Office, DCLG, BIS, working with other government departments and regulators to identify and remove unnecessary regulatory barriers to growth and associated costs to the house building sector, while ensuring necessary protections are maintained. It will build upon previous work of the government to identify an initial list of regulatory burdens on house builders and identify opportunities to reduce these.

As part of the review, we want hear from businesses, trade associations and others with an interest in the sector. The review will examine any aspects of regulation or the way it is implemented which could be made simpler, more cost-effective, efficient, proportionate, or consistent.

https://cutting-red-tape.cabinetoffice.gov.uk/house-building/

21 CLG Statistics

Net supply of housing in England: 2014 to 2015

This publication presents estimates of changes in the size of the dwelling stock in England due to new builds, conversions, changes of use, other gains/losses and demolitions.

- In 2014-15 there were 170,690 net additional dwellings in England, a 25% increase on the number of net additional dwellings in 2013-14.
- Of the 170,690 figure for 2014-15 155,080 were new homes, 4,950 were additional homes resulting from conversions, 20,650 were additional homes resulting from changes of use and 630 were other gains. 10,610 homes were lost through demolitions.

https://www.gov.uk/government/statistics/net-supply-of-housing-in-england-2014-to-2015

22 CLG Guidance

Large sites infrastructure programme: prospectus

The government is introducing a six year programme of support directed to unlocking and accelerating the development of large scale housing schemes. This prospectus invites bids for recoverable capital funding from the Large Sites Infrastructure Fund. The minimum investment is £500,000 which must be for a site with capacity for at least 1,500 units.

https://www.gov.uk/government/publications/large-sites-infrastructure-programme-prospectus

23 CLG Statistics

House building in England: July to September 2015

- It estimated that there were 34,250 seasonally adjusted housing starts in the September quarter 2015, 2% higher than in the previous quarter and 2% more than in the same quarter 2014.
- In the September 2015 quarter it is estimated that there were 34,940 seasonally adjusted completions, 2% fewer than in the previous quarter. Compared to the September 2014 quarter, the number of completions was up by 15%.
- There were 137,490 housing starts in the 12 months to September 2015, 1% fewer than the year before, but completions were up by 17% compared to the 12 months to September 2014 at 135,050.

https://www.gov.uk/government/statistics/house-building-in-england-july-to-september-2015

24 CLG Statistics

Live Tables on House Building

These tables provide the latest, most useful or most popular data, presented by type and other variables, including by geographical area or as a time series.

https://www.gov.uk/government/statistical-data-sets/live-tables-on-house-building

25 CLG Statistics

Affordable housing supply in England: 2014 to 2015

This publication presents statistics on the gross additional affordable housing supply in England between April 2014 and March 2015. A total of 66,640 affordable homes were provided in England in 2014-15, 55 per cent higher than the 42,870 affordable homes supplied in 2013-14. Overall, the number of homes delivered for social and affordable rent increased 64 per cent from 30,670 in 2013-14 to 50,300 in 2014-15. There were 16,080 affordable home ownership completions in 2014-15, an increase of 41 per cent compared to delivery in 2013-14. There were 58,560 new build affordable homes provided in 2014-15, a 60 per cent increase from the 36,640 built in 2013-14. New build homes represented 88 per cent of all affordable homes provided in 2014-15 compared to 85 per cent of total supply in 2013-14. Affordable rented supply increased from 19,740 in 2013/14 to 40,710 in 2014/15.

https://www.gov.uk/government/statistics/affordable-housing-supply-in-england-2014-to-2015

26 National Statistics

Housing statistics 1 April 2015 to 30 September 2015
These statistics present the housing starts on site and housing completions delivered by the Homes and Communities Agency (HCA) between 01.04.15 and 30.09.15. The key points are as follows:

- There were 10,592 housing starts on site and 9,471 housing completions delivered through programmes managed by the HCA in England (excluding London for all programmes except those administered by the HCA on behalf of the Greater London Authority) between 01.04.15 and 30.09.15;
- The majority (7,572 or 71 per cent) of the housing starts on site in the six months to 30.09.15 were for affordable homes, but this is 20% fewer than the 9,439 affordable homes reported between 01.04.14 and 30.09.14; and
- 6,447 or 68 per cent of housing completions in the first six months of 2015-16 were for affordable homes. This represents a decrease of 39 per cent on the 10,483 affordable homes completed in the first six months of 2014-15.

https://www.gov.uk/government/statistics/housing-statistics-1-april-2015-to-30-september-2015--2

27 Homes & Communities Agency (HCA) Bulletin

Housing Market Bulletin – November 2015

The housing market bulletin provides the latest information on the housing market, the economy and the house building industry. The information is drawn from several different sources. It includes:

- house price changes from the top house price indices including Nationwide, Halifax, the Land Registry and the Royal Institute of Chartered Surveyors;
- housing market forecasts;
- housing starts and completions as reported by the Department for Communities and Local Government and updates on key house builders; and
- mortgage trends and overall economy information

The following are the main trends in the November bulletin:

- Steady national average price increases disguise shifting regional trends. Although average rises in the southern regions remain the strongest they have eased and growth has returned to all other regions' average price levels;
- The seasonally adjusted trend in the number of home sales has generally been upwards in 2015 and total mortgage lending continues to rise; and
- Housing completions have increased 15% year-on-year, led by the private sector.

https://www.gov.uk/government/publications/housing-market-bulletin

28 British Property Federation Report

Quality Buildings Quality Care

This report argues that in the long term, investment in more modern purpose built premises represents good value for money in terms of provision of better healthcare services for patients, lower staff turnover rates and higher patient safety rates. It calls for the NHS to recognise, monitor and systematically report on the wider benefits of healthcare infrastructure investment.

http://www.bpf.org.uk/sites/default/files/resources/BPF-Quality-Buildings-Quality-Care-Nov-15-web_0.pdf?utm_source=update&utm_campaign=65351f42e0-BPF+Update+-+26th+November&utm_medium=email&utm_term=0_0134d0d4b0-65351f42e0-246675113&mc_cid=65351f42e0&mc_eid=01069531d7

REAL PROPERTY

29 High Court

Easement – timeshare owners applying for declarations of rights to use leisure facilities on defendants' adjacent land free of charge – whether asserted rights capable of being easements

*REGENCY VILLAS TITLE LTD V DIAMOND RESORTS (EUROPE) LTD
[2015] PLSCS 354 – Decision given 07.12.15

Facts: The claimant company owned a site near Canterbury on which twenty six timeshare units known as Regency Villas had been built. The defendant was the freehold owner of the adjoining estate with sporting and leisure facilities including a tennis court, swimming pool, gardens and a golf course. A dispute arose concerning the alleged rights of the timeshare owners to use these facilities free of charge.

Point of dispute: Whether the claimant should be granted a declaration that by virtue of a 1981 transfer of title the timeshare properties enjoyed the benefit of an easement allowing them to use the sporting and recreational facilities free of charge. The main issue was whether the rights that were claimed were capable of being the subject matter of a grant of easement.

Held: The claim was allowed.

i. There were four characteristics of an easement: (i) there had to be a dominant and a servient tenement; (ii) an easement had to accommodate the dominant tenement; (iii) dominant and servient owners had to be different persons; and (iv) a right over land could not be an easement unless it was capable of being the subject matter of a grant. In this case all four characteristics were satisfied with the timeshare land being the dominant tenement and the estate the servient tenement. The rights, which extended to all sporting and recreational facilities on the estate, were capable of forming the subject matter of a grant.

ii. An easement which permitted the dominant owner to walk over all parts of the servient tenement purely for pleasure could exist in law. Therefore, the use of the pleasure garden took effect as an easement and that could be extended to the use of sporting and other recreational facilities. Rights of recreation could take effect as easements so long as they accommodated dominant land, were not too wide and vague, did not amount to rights of joint occupation and did not deprive the servient owner of proprietorship or legal possession. Legally, there was nothing to prevent a right of recreation taking effect as an easement provided that the intention to grant an easement (as opposed to a merely personal right) was evident on the proper construction of the grant construed in the light of the material surrounding circumstances.

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GENERAL

30 Court of Appeal

Solicitors' duty of care – negligent overvaluation of property by surveyors – whether solicitors liable to contribute towards settlement of claim

*E. SURV LTD V GOLDSMITH WILLIAMS SOLICITORS
[2015] PLSCS 318 – Decision given 11.11.15

Facts: In 2005 a lender instructed ESL, the respondents, to value a detached property near Buxton in connection with a loan of £580,000 by way of remortgage. GWS, the appellants, were instructed by both the lender and the borrower in connection with the loan transaction, on the terms of the then current CML Lenders Handbook and the lender's Part 2 instructions. In his loan application the borrower stated that he had bought the property for £450,000. ESL valued it at £725,000 and the lender made the offer of advance as requested. In the course of investigating title GWS obtained office copy entries which revealed that the property had in fact been purchased by the borrower six months previously for only £390,000. The lender sued ESL for negligent over-valuation of the property and ESL settled this claim for £200,000.

Point of dispute: Whether to allow GWS's appeal against the decision of the judge in the court below that GWS should contribute £100,000 to ESL under the Civil Liability (Contribution) Act 1978. The judge allowed ESL's claim on the grounds that:

i. the terms of the CML Lenders Handbook, read with the Solicitors Practice Rules 1990 and the certificate of title, did not exclude the duty of a solicitor to report to the lender, where in the course of carrying out its instructions it came into possession of information which had a material bearing on the valuation of the lender's security or some other ingredient of the lending decision *(Mortgage Express v Bowerman [1996] 1 EGLR 126)*; and

ii. had the lender been provided with the information it would have contacted ESL for a revised valuation and the transaction would not have proceeded.

Held: The appeal was allowed.

i. The *Bowerman* duty required a solicitor to point out to a lender any facts which it discovered in the course of investigating title which a reasonably competent solicitor would realise might have a material bearing on the valuation of the lender's security or some other ingredient of the lending decision. This duty was not inconsistent with anything in the CML Handbook read together with the Solicitors' Practice Rules 1990. These rules included 'making appropriate searches relating to the property in the public registers…. and reporting any results which the solicitor considers may adversely affect the lender'. This would include a Land Registry search and where it revealed that the property had recently been purchased at a price which suggested that the valuation was excessive this was a matter which was relevant to the value of the proposed security. A solicitor was not required to carry out work which was outside the scope of his instructions, but if, while carrying out that work, he discovered non-confidential information that a reasonably competent solicitor would realise adversely affected the title to the mortgage property or the value of the security he was under a duty to report it to the lender.

ii. GWS was in breach of duty for failing to inform the lender about the earlier purchase since a reasonably competent solicitor would have realised from the date of the purchase and the price paid that the valuation was excessive.

iii. However, GWS was not liable since ESL had failed to establish that GWS's breach of duty was the cause of the lender's loss. The lender was already in possession of information which suggested that the valuation was too high, being the figure stated as the purchase price in the loan application. It was not suggested that the difference between the stated figure of £450,000 and the actual price paid of £390,000 was material.

31 Government Policy Paper

Common land consents policy

This document sets out the Sec of State's functions in relation to common land, and town or village greens casework in England fulfilled by the Planning Inspectorate, including:

- determining applications for deregistration of registered common land and town or village greens;
- applications for consent for works on registered common land; and
- consents, certificates and orders under various other statutory provisions in relation to common land and town or village greens.

This note sets out the Sec of state's policy in relation to the determination of this casework. It has been published for the benefit of the Planning Inspectorate, applicants for consent and others who may have an interest in applications, such as objectors.

https://www.gov.uk/government/publications/common-land-consents-policy

32 Fields Trust Guidance

Guidance for Outdoor Sport and Play, Beyond the Six Acre Standard

These guidelines for the design of spaces for outdoor sport and play have been produced to reflect new planning policy in the NPPF, the Localism Act 2011 and the phased introduction of the Community Infrastructure Levy. It is intended to be a tool for local planning authorities, developers, planners, urban designers and landscape architects in the design of outdoor sport, play and informal open space.

http://www.fieldsintrust.org/guidance

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

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Abbreviations
The following abbreviations are used in evebrief:

BLD	Lexis Nexis Butterworths (internal abbreviation)
EG	Estates Gazette
EGLR	Estates Gazette Law Reports
EWCA	England & Wales Court of Appeal
EWHC	England & Wales High Court
P&CR	Property, Planning and Compensation Reports
PLSCS	Property Law Service Case Summaries

The star system
Cases are marked with one, two or three stars as follows:

*** Essential reading on the point of law or valuation with which the case is concerned, because it adds to, or clarifies or changes, the law.

** Noteworthy case which does not significantly alter the law or which relates to a relatively obscure point.

* Interesting but non–essential reading.

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Gerald Eve Research
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EVEBRIEF

Legal & Parliamentary

Volume 37(09) 21 December 2015

SCOTLAND

LANDLORD & TENANT

01 Scottish Government Statistics

Private Sector Rent Statistics, Scotland, 2010 to 2015

This publication presents statistics on private sector rent levels in Scotland over the years 2010 to 2015 (years to end-September) using data from the Rent Service Scotland market evidence database. It presents information on rent levels for different property sizes across each of the 18 broad rental market areas in Scotland. It contains information on average rents as well as rents at the higher and lower end of the market.

http://www.gov.scot/Publications/2015/11/3376

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PLANNING

02 Scottish Government Circular

Planning Circular 2/2015: Consolidated Circular on Non-domestic Permitted Development Rights

This Circular consolidates and updates guidance on certain permitted development rights in the GPDO, including sewerage undertakings, forestry, agricultural buildings, private ways and electronic communications code operators.

http://www.gov.scot/Publications/2015/11/2264

GERALDEVE

03 Scottish Government Circular

Circular 3/2015: Planning Controls for Hazardous Substances

This Circular provides guidance on the statutory requirements implementing the land use planning aspects of the Sevesco III Directive on the control of major accident hazards involving dangerous substances. The aim is to take into account in planning decisions the need to minimise the risks and consequences of major accident hazards for people and the environment.

http://www.gov.scot/Publications/2015/11/9813

04 Scottish Government Consultation

Getting the best from our land, Draft Land Use Strategy 2016 – 2021
Deadline for comments: 29.01.16

The Scottish Government published its first Land Use Strategy in March 2011 with the aim of initiating a change towards a more integrated and strategic approach to land use in Scotland. Under the Climate Change (Scotland) Act 2009 it is a requirement that the Strategy is reviewed every five years. This consultation draft Land Use Strategy 2016 – 2021 builds on the first Strategy, retaining the strategic vision, objectives and principles for sustainable land use.

If you require advice on planning & development issues, contact Hugh Bullock on Tel. +44 (0)20 7333 6302 hbullock@geraldeve.com

http://www.gov.scot/Publications/2015/11/6869

https://consult.scotland.gov.uk/land-use-and-biodiversity/land-use-strategy-for-scotland

HOUSING

05 Scottish Government Statistical Publication

Housing Statistics for Scotland Quarterly Update (published 1 Dec 2015)

This quarterly statistical publication provides information on recent trends in the following:

- New build housing starts and completions by sector (up to the end of June 2015, with more up-to-date social sector information available up to end September 2015);
- The Affordable Housing Supply Programme (up to end September 2015);
- Local Authority house sales including Right to Buy (up to end June 2015); and
- Long term empty properties and Second Homes.

http://www.gov.scot/Publications/2015/12/3681

CONSTRUCTION

06 Scottish Government – Consultation response

Consultation Responses: Building Standards Review 2015 – in-building physical infrastructure for high speed electronic communications networks

If you require advice on construction issues, contact Richard Fiddes on Tel. +44 (0)20 7333 6294 rfiddes@geraldeve.com

These responses relate to the proposed introduction of a building standards and associated guidance within the building standards Technical Handbooks to implement Article 8 of the European Directive 2014/61/EU.

http://www.gov.scot/Publications/2015/12/2501

ENERGY

07 Statutory Instrument

SI 2015/386 The Energy Performance of Buildings (Scotland) Amendment Regulations 2015

These Regulations, which came into force on 19.12.15, amend Regulation 15 of the 2008 Regulations which provides that the local authority is the enforcement authority for its area and that there is a duty on the local authority to enforce the 2008 Regulations in its area. Regulation 15 is amended to provide that the Scottish Ministers may direct that they or another person (including another local authority) are to be an enforcement authority in respect of the performance by a local authority of the duties under the 2008 Regulations.

http://www.legislation.gov.uk/ssi/2015/386/contents/made

WALES

LANDLORD & TENANT

08 Statutory Instrument

SI 2015/1821 – The Residential Property Tribunal Procedures and Fees (Wales) (Amendment) Regulations 2015

These Regulations, which came into force on 22.11.15, amend the 2012 Regulations in light of ss17(4) and 27(1) of the Housing (Wales) Act 2014 ('the 2014 Act') and the Consumer Rights Act 2015 ('the 2015 Act'). The 2012 Regulations are amended to include provision in respect of new appeals which may be made to a residential property tribunal under the 2014 Act and the 2015 Act. In relation to ss17(4) and 27(1) of the 2014 Act, these are appeals against a decision to place certain conditions on a licence, appeals against the revocation of registration as a landlord, appeals against the amendment of a licence, appeals against the revocation of a licence and appeals against a decision not to grant a licence. In relation to the 2015 Act, these are appeals made by letting agents against financial penalties imposed against them by a local weights and measures authority.

http://www.legislation.gov.uk/wsi/2015/1821/contents/made

09 Statutory Instrument

SI 2015/1822 The Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Wales) Regulations 2015

W.e.f 16.12.15, these Regulations revoke and replace, with some changes, the 1997 Regulations in relation to Wales. Regulation 3 prescribes the classes of appeals made under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning (Hazardous Substances) Act 1990 which are to be determined by persons appointed by the Welsh Ministers instead of by the Welsh Ministers themselves. Regulation 4 prescribes certain classes of case, within the classes of appeal prescribed under Regulation 3, which will continue to be determined by the Welsh Ministers.

http://www.legislation.gov.uk/wsi/2015/1822/contents/made

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RATING

10 Statutory Instrument

WSI 2015/1905 The Non-Domestic Rating Contributions (Wales) (Amendment) Regulations 2015

These Regulations, which come into force on 31.12.15, amend the 1992 Regulations by substituting a new Schedule 4 (Adult Population Figures).

http://www.legislation.gov.uk/wsi/2015/1905/contents/made

If you require advice on rating issues, contact Jerry Schurder on Tel. +44 (0)20 7333 6324 jschurder@geraldeve.com

HOUSING

11 Statutory Instrument

WSI 2015/1932 The Code of Practice for Landlords and Agents licensed under Part 1 of the Housing (Wales) Act 2014 (Appointed Date) Order 2015

The Code of Practice for Landlords and Agents licensed under Part 1 of the Housing (Wales) Act 2014 ('the Code') was approved by resolution of the Welsh Assembly on 03.11.15 and it came into force on 23.11.15. The Code contains requirements and recommendations in relation to standards for letting and managing rental properties, including requirements which are existing statutory obligations. These requirements must be complied with by licensed landlords and agents, or their licences will be revoked. The Code also contains best practice recommendations, but non-compliance with these would not lead to revocation of a licence.

http://www.legislation.gov.uk/wsi/2015/1932/contents/made

CONSTRUCTION

12 Welsh Government Consultation

Approved Document R – Physical infrastructure for high-speed electronic communications networks
Deadline for comments: 12.01.16

If you require advice on construction issues, contact Richard Fiddes on Tel. +44 (0)20 7333 6294 rfiddes@geraldeve.com

This consultation contains proposals for amendments to the Building Regulations 2010 (as amended), and a proposed new Approved Document R.

http://gov.wales/consultations/planning/approved-document-r/?lang=en

NORTHERN IRELAND

PLANNING

13 Northern Ireland Government Statistics

NI Planning Statistics 2015/16 – First Quarter

- Between April and June 2015 3,188 planning applications were received, up 5.5% on the same quarter in 2014/15.
- In the same period there were 2,013 planning decisions, a fall of 26.6% on the same period last year.
- The average processing time to decide Major Development applications was 37.6 weeks across all councils.

If you require advice on planning & development issues, contact Hugh Bullock on Tel. +44 (0)20 7333 6302 hbullock@geraldeve.com

http://www.planningni.gov.uk/index/news/doe_planning_news/news_releases_2015/news-planning-stats-201516-first-quarter.htm

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