

PLANNING NEWSLETTER

Issue 5 April 2005

LATEST NEWS

HOUSING DENSITIES

A new Circular, OI/05, requires all planning authorities in London, the South East, South West, Northamptonshire and East of London to refer to the Secretary of State any housing application which they are going to approve on a site of 1 ha. or more which is at a density of less than 30 dph. The Circular sets out how the density is calculated and how the site is measured.

Contact Richard Tilley (richard.tilley@cgms.co.uk) for further information

PPS6 TOWN CENTRES

The new PPS6 on Town Centres has been published. This covers not only retail and leisure developments but also all town centre uses and it introduces for the first time a sequential approach for out of centre office parks as well as out of centre retail and leisure. Any proposal which generates significant movements of people or traffic should now be located in town centres.

Click here for the separate news bulletin on PPS6
and contact John Stockdale (john.stockdale@cgms.co.uk) for further information

CHANGES TO LISTED BUILDING PROCEDURES

Full control over the administration of the listing process has been transferred to English Heritage. Applications for listing should now be submitted to English Heritage rather than DCMS. English Heritage will, for the first time, consult owners and local authorities on applications to list buildings.

Contact Jonathan Edis (jonathan.edis@cgms.co.uk) for further information

TEMPORARY STOP NOTICES

Faster and more effective enforcement powers against the development of unauthorised gypsy and traveller sites have been introduced in Circular 2/05 which sets out the provisions to implement temporary stop notices.

Under the 2004 Housing Act and new draft planning guidance, local authorities will be

LONDON OFFICE

Morley House
26 Holborn Viaduct
London
EC1A 2AT

Tel: 020 7583 6767
Fax: 020 7583 2231

CHELTENHAM OFFICE

Burlington House
Lypiatt Road
Cheltenham
GL50 2SY

Tel: 01242 259290
Fax: 01242 259299

NORTHAMPTON OFFICE

Wykes Farm
Allens Hill
Bozeat
Northampton NN29 7LW

Tel: 01933 666391
Fax: 01933 664861

obliged to access the level of need for gypsy and traveller sites in their areas, and will be required to identify appropriate land in their development plan documents. Funding will be provided through the Regional Housing Board for local authorities and Housing Associations to establish new sites.

A new Traveller and Gypsy Unit is to be set up in ODPM to support local authorities in meeting their responsibilities, providing advice on enforcement issues and the provision of round-the-clock services to tackle unauthorised sites. The new unit will also support local authorities in addressing shortages of sites, through the planning and housing system.

Contact Valerie Scott (valerie.scott@cgms.co.uk) for further information

CONTENTS OF THE REST OF THE NEWSLETTER	
p.2	PLANNING LAW UPDATE
p.4	PLANNING APPEALS UPDATE
p.7	CgMs NEWS

PLANNING LAW UPDATE

Gypsies

Gypsies on the Attack

The Government have published a Supplement to the Guidance on Managing Unauthorised Camping which sets out the provisions of the Criminal Justice and Public Order Act 1994 and the powers to remove trespassers.

Brentwood BC is the first local authority to be required by the Government to produce a development plan allocating land for gypsies and travellers. The Government estimate that there is a shortfall of around 300 sites required for these groups. This direction comes despite the inspector's favourable report on the local plan.

Gypsy Site Search

An enforcement notice was served on a site in the green belt and a special landscape area. The inspector recommended the appeal be allowed as there were no other suitable sites and this one did not cause undue harm. However the minister said that there was no clear evidence about significant efforts to find alternative sites. He was wrong on this issue as evidence had been brought as was necessary in this type of area. However the gypsy did not have to search extensively outside the locality to fulfil Circular 1/94. Decision quashed: *Simmons v First Secretary* (2/3/05).

Environmental Assessments

EIA Publicity

The EEC have amended the environmental impact assessment directive to take on board further public participation provisions. As a result the Welsh Assembly are consulting on new regulations and similar consultations will be undertaken in England and Scotland shortly.

There are several improvements to the information which authorities must make available to the public. For example the contents of the EIA must be made more explicit and wider publicity given.

EIA Process Flawed

A waste-treatment facility was proposed and the application accompanied by an EIA. There was concern about the efficacy of the proposed “negative air pressure” system and a condition was imposed requiring further details of this. However this was a deficiency in the assessment and should have been dealt with at an earlier stage. As this information was not available to the decision maker the permission was quashed: *R (Hereford Waste Watchers) v Herefordshire CC* (18/2/05).

Retailing

Extended Retail Catchment

A large store was proposed and there was no opposition but the minister refused permission. His decision was quashed and a second inspector appointed who recommended against the scheme despite lack of opposition. The Secretary of State rejected the application. He was entitled to place greater weight on the UDP than the emerging plan and to have regard to a wider catchment area than contended by the appellants. Challenge rejected: *Ikea Properties v First Secretary* (18/2/05).

Leisure or Employment?

An industrial building had been hard to let and there was clear evidence that there was no requirement for this. However the inspector rejected a health and fitness club but failed to say why the un-contradicted evidence should be rejected. Decision quashed: *Hammersmatch Properties v First Secretary* (24/2/05).

Housing

Continuous Residential Use

A barn was the subject of a lawful development certificate but it was contended that the claimant had not live there continuously for four years having been part of the time in a bail hostel. Held – it was not necessary to be continuously on the premises e.g. a holiday or other temporary absence did not stop time running whereas removal of personal effects and furniture could do so: *Swale BC v First Secretary* (4/3/05).

Improper New Housing Policies

A council deleted local plan policies which delayed housing on greenfield sites and

introduced stricter affordable housing provision. It was claimed that this would affect certain sites and, as it was not subject to public consultation and the principles of natural justice the decision was quashed: R (Wainhomes) v Wiltshire DC (16/2/05).

Farmyard Noise

A variation of a working condition from 8:00 am to 7:30 am was permitted by a council but challenged on the basis of additional noise to nearby residents. The council had properly understood their policy, taken fully into account noise measurements and had not misinterpreted them. Challenge rejected: R (Harlow) v S Cambridgeshire DC (17/2/05).

Miscellaneous

Costly Bypass Noise?

A bypass was constructed by developers who undertook to indemnify the council in respect of claims "in connection with or incidental to carrying out the works. This did not however extend to claims for additional noise arising out of use of the road as this was not expressly mentioned in the agreement, Wiltshire CC v Crest Estates (18/2/05).

No Abandonment of Local Plan

A local plan was in the course of preparation but because of the forthcoming need to prepare a local development framework the council withdrew the plan. This meant that developers could not contest their site at an inquiry and other sites could proceed in the meantime. This was not the correct interpretation of the Act or the transitional regulations and the claim was allowed: R (Martin Grant Homes) v Wealdon DC (4/3/05).

Court Adjournment Refused

The claimants had gone to court but were unsuccessful. They lodged an appeal. Thereafter they came to an agreement with the council to put in a new application which could take up to two years to determine. They asked that their appeal be held over for this period, but the court held that it should deal with matters expeditiously and refused the order: Stancliffe Stone Company v Peak District NPA (24/2/05, CA).

Benefit of Planning Permission

An agent applied and obtained permission for redevelopment which considerably enhanced the site value. The owner denied there was any agreement to share the increase and although there was nothing in writing the situation was covered by proprietary estoppel which allowed a remedy: Cobbe v Yeomans Row Management (25/2/05).

PLANNING APPEALS UPDATE

Affordable Housing

Housing Tenure Disputed

The council wish to control tenure and nomination rights within an obligation or conditions. The Inspector concluded that the unilateral obligation was sufficient, mentioning housing needs of persons with a Newham connection. Appeal at Windmill Lane E15 allowed (Newham LBC, 10/12/04).

Rented Housing Rejected

At Mount Pleasant Estate, Walsgrave the proposal was for the affordable housing to be rented but there was no social landlord involved. There was no guarantee the rents would remain below the low market level and appeal dismissed (Coventry CC, 28/1/05).

Off-Site Affordable Housing

Affordable housing in a sheltered flat scheme at Brighton Road, Purley could lead to a divisive community, fostering resentment and pose significant management issues. Thus an off-site contribution would be acceptable at the appellant's figure rather than the unjustified higher one of the council. As the scale of development was acceptable with adequate open space the appeal was allowed with partial costs as members' concern about disabled parking were not well-founded and a condition could have been imposed (Croydon LBC, 9/2/05).

How Long Affordable?

Housing at Queen Street, Stotford would not impact on neighbours. A period of 20 years did provide for the affordable units to remain over an acceptable period. Appeal allowed (mid-Bedfordshire DC, 1/2/05).

Housing: Impact on locality

Tall Building Succeeds

Two appeals for 12 and 15 storey flats at Waterloo Road SE1 were concerned with their height and the lower one fitted in better. Small flats in this central location were acceptable at densities well in excess of the UDP range. Appeal allowed (Southwark LBC, 13/1/05).

Housing Improves Recreation

Use of part of a site at North Shoebury Road for housing was acceptable although allocated as an extension to a park. This extension had been a long-standing proposal and the housing would enable part of this to be obtained and a link with other areas made. Appeal allowed (Southend BC).

Housing: Local Plan

Previous Allocation Doubted

A site at Brisley Farm Ashford has allocated for residential in a 1994 local plan but subsequently deleted on a review. Housing would now extend into the countryside and be unrelated to the emerging pattern of development. Despite a requirement for accelerated housing growth this site should not go forward and appeal dismissed (Ashford BC).

Slow House Building

At Mill Lane, Herne Bay the site adjoined a new housing estate and in the emerging local plan had been allocated for this purpose. However, there was an objection from the Government Office. An appeal has been allowed as house building in the district had fallen behind structure plan requirements and this site was suitable to help meet the shortfall (Canterbury DC, 17/2/05).

Housing & Employment

Employment goes Residential

At High Street North, Dunstable there was sufficient other employment sites available and the major use of this one for housing would help the supply of brownfield sites where there was an imbalance with greenfield sites. Emerging PPG3 guidance in the future of employment sites gave weight to the appeal which was allowed (S Bedfordshire DC, 31/1/05).

Removal of Green Belt Industry

At Kingsley the production of polymers gave rise to environmental concerns and six houses would allow the firm to relocate to an industrial estate. Although this was inappropriate development in the green belt removal of the industrial use and associated traffic movements would give rise to a general improvement justifying approval of the application (Vale Royal BC, 3/2/05).

Factory Stays

Removal of a textile printing factory at Rainshore Mills, Norden and replacement by housing would result in some reduction in buildings and improve the green belt. However this was an outline application and the benefits could not be properly quantified. There was a lack of need for the scheme and the application was therefore rejected (Rochdale MBC, 8/2/05).

Retail

Offices Oust Retail

Use of a pumping station for extension to an existing retail unit at Station Road, Filey would conflict with its office allocation in an area of high unemployment. This was an edge-of-centre site and no sequential test had been carried out. Appeal dismissed (Scarborough BC, 28/1/05).

Loss of Views

A replacement superstore at Culverhouse Cross, Cardiff would harm views across the site with the removal of trees although peripheral planting would remain. Appeal dismissed (Vale of Glamorgan CBC, 1/2/05).

Supermarket and Traffic

A supermarket at Venosa Trading Estate would be on a distributor road but would not harm traffic flows provided there was a yellow box junction. Appeal allowed (Caerphilly CBC, 10/2/05).

Bulky Goods Remain

An attempt to change a condition to encompass furniture, electrical goods, office supplies, camping and leisure goods at Samlet Road would allow high value items in a unit which could be sub-divided. The city centre was already under stress and this proposal would be contrary to the development plan. Appeal dismissed (Swansea CC, 10/2/05).

Miscellaneous

Seasonal Caravans

An old permission was said to be for seasonal caravans but contained no condition about this or the times of the year when occupation could be undertaken. A lawful development certificate for continuous occupation is therefore been granted at Faversham Road, Whitstable (Canterbury CC, 13/4/04).

Nursery Employment

A children's indoor play area at Albion Close, Worksop would provide two more jobs than existing. There was no assessment as to employment land in the district and no evidence of any harm to employment. Appeal allowed (Bassetlaw DC, 28/1/05).

CgMs NEWS

PLANNING NEWS

Former Government Offices in Bedford to be converted to housing

On behalf of clients PPG Southern Ltd, CgMs has submitted a full planning application for the conversion of, and extension to, Heron House on Goldington Road in Bedford to form 78 high quality apartments. The scheme provides for 23 affordable units aimed at Key Workers, together with car parking and cycle parking.

Heron House is located at an important gateway to both Bedford town centre and the Conservation Area and the scheme architects, Jestico and Whiles, have completely remodelled the building so that it will make a positive contribution to the character and appearance of the Conservation Area.

As well as co-ordinating the application submission, CgMs prepared a detailed Supporting Statement dealing with the planning and conservation issues raised by the proposals. In addition to the architects, White Young Green provided highways and sustainability advice and Geoffrey Bunyan Associates provided advice on trees in the light of the site's Conservation Area location.

Contact Steve Wilson (steve.wilson@cgms.co.uk) for further information

Knowle Village, Wickham, Hampshire



CgMs have secured planning permission on behalf of Berkeley Homes for 106 dwellings at Knowle Village, Wickham, Hampshire, including open space and affordable housing. This follows extensive consultation on a complex site and a community consultation exercise.

CgMs are instructed on all planning matters for the development of this new village in Central Hampshire, which comprises the redevelopment and conversion of a former Victorian hospital including a number of listed buildings, a range of commercial uses, community facilities and open space. The total number of dwellings is anticipated to be approx 700.

Contact Robin Shepherd (robin.shepherd@cgms.co.uk) for further information

Toys R Us – Oldbury, West Midlands

Sandwell MBC has resolved to grant planning permission for an extension to the Toys R Us store at Oldbury. CgMs acted for Toys R Us and prepared planning and retail assessments in support of the proposals.

Contact Malcolm Honour (malcolm.honour@cgms.co.uk) for further information

The Money Shop

CgMs has recently been instructed by The Money Shop to deal with advertisement and listed building consent applications at their unit at Turnpike Lane Underground Station. The station is a Grade II Listed, red brick built building designed by Charles Holden and constructed in 1932. The Money Shop wish to display fascia signage utilising their corporate colours (yellow and red) around the external fascia.

Contact John Brooks (john.brooks@cgms.co.uk) or Steve Forman (steve.forman@cgms.co.uk) for further information

HISTORIC BUILDINGS NEWS

Station Street, Ross on Wye

The former barrel store of an 18th and 19th century brewery in the centre of Ross on Wye has been recorded prior to its demolition and redevelopment of the site. The stone built range comprised two storeys with barrel storage at ground and general storage above. The building retains a number of original features despite its 20th century conversion to a canoe store.

Contact Ignus Froneman (ignus.froneman@cgms.co.uk) for further information

Walled Garden, Bethlam Royal Hospital, Beckenham

CgMs have recently completed the recording of this multi phased walled garden. The site included the original brick walls with later alterations as well as number of glasshouse structures ranging in form and date from the early 19th to the 20th century. The garden was originally built for Wickham House, superceded by a larger house in the mid 19th century.

Contact Karl Hulka (karl.hulka@cgms.co.uk) for further information

CgMs Staff

CgMs is pleased to announce the following promotions:

Greg Dowden and Matthew Roe – promoted to Senior Associate Director

Duncan Bennett, Mike Dawson, Nathan McLoughlin and Cathy Patrick – promoted to Associate Director

Steve Forman & Narvinder Sindhar – promoted to Senior Planner

Richard Meager – promoted to Senior Archaeologist