

PLANNING NEWSLETTER

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LATEST NEWS

ODPM – DCLG

Department of Communities and Local Government (DCLG)

Following the poor local government election result of the Labour Party and the personal and yet publicly known issues relating to the John Prescott, the Office of the Deputy Prime Minister has now been broken up and a new and yet surprisingly larger department has been created together with the appointment of a new Secretary of State.

The new department is called the “Department for Communities and Local Government” and this headed by Ruth Kelly who is now appointed as Secretary of State.

The DCLG is created as an expanded department with a “powerful new remit to promote community cohesion and equality, as well as responsibility for housing, urban regeneration, planning and local government”

The DCLG press release also states that the “DCLG will unite the communities and civic renewal functions previously undertaken by the Home Office, with responsibility for regeneration, neighbourhood renewal and local government (previously held by the ODPM).

Ruth Kelly has also been appointed as Cabinet Minister for Women, whilst the DCLG will also bring together responsibility for equality policy.

Yvette Cooper remains Minister for Housing and Planning and Phil Woolas remains Minister for Local Government. David Miliband has been promoted to Secretary of State for the Department for the Environment, Food and Rural Affairs.

Although early days Ruth Kelly has already stated that the delivery of affordable housing is her planning priority and there should be an end to “nimbyism” in the development of higher density residential development on brownfield sites – a jibe know doubt aimed at some of the new Conservative Councils in London and the South East who are likely to resist increases in higher density housing provision in their towns, let alone accept development to meet growing household needs in the urban fringe.

Kelly Shakes Up Planning

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No sooner had Ruth Kelly been appointed as a Secretary of State for the newly created Department for Communities and Local Government (DCLG) she then "...declared war on middle-class families resisting government plans to build hundreds of thousands of new homes", according to the Daily Telegraph. This continues the policy of John Prescott who dramatically increased the requirement for a new house building following Kate Barker's report.

DCLG Responsibilities

Ruth Kelly is supported by:

Phil Woolas – Minister for Local Government and Community Cohesion: local government policy; local government finance; neighbourhood renewal; supporting people, community cohesion and faith; fire and civil resilience; cities.

Yvette Cooper – Minister for Housing and Planning: housing; planning; planning casework for East Midlands and East; urban policy; growth areas; Thames Gateway; building regulations; Government Offices; regional economic development (including Northern Way)

Angela E Smith – Parliamentary Under Secretary: Fire; Building regulations; climate change; local government intervention and engagement; Beacon Councils; capacity building fund; e-government; Audit Commission sponsorship; performance framework; Ordinance Survey.

Meg Munn – Parliamentary Under Secretary: women and equalities; support on community cohesion and faith; gypsies and travellers; planning casework for growth areas, West Midlands, South West, North East and North West.

Baroness Andrews – Parliamentary Under Secretary of State: DCLG business in the Lords; planning policy plus casework for Yorkshire and Humber; South East (excluding Brighton and Lewes) and London; neighbourhood renewal (New Deal for Communities, Neighbourhood Management Pathfinders and Local Enterprise Growth Initiative); liveability; social exclusion.

What is the Department for Communities & Local Government?

In announcing the new department No 10 described it as "an expanded department with a powerful new remit to promote community cohesion and equality, as well as responsibility for housing, urban regeneration, planning and local government which [now includes] communities and civic renewal functions previously undertaken by the Home Office".

Subsequently the Prime Minister wrote to Ruth Kelly setting out his priorities for her new Department. He said that these were:

- To develop the "important themes" of social mobility and economic inclusion to address challenges such as democratic renewal. Sustainable communities must be created which could share the benefits of economic growth through strong cities and regions.

- To bring work on local government reform to a successful conclusion. There should be a radical, devolutionary White Paper and Bill, with more powers for local neighbourhoods and new models of accountability and leadership, including mayors.
- To deliver the Government's policy in response to the Barker review of housing supply. Helping hard working families and first time buyers to get their foot on their housing ladder should be a key priority.
- To build on Kate Barker's current work on land use planning, identifying further proposals for reform of the planning system and working with Alistair Darling and Douglas Alexander on this as the Energy Review and Rod Eddington's transport work would be relevant.

Tony Blair has asked Kelly to submit her initial assessment of both the challenges and how the new Department intends to meet them by the end of June, asking her to bear in mind that there would be lower growth in funding than in recent years.

May 2006 Local Government Election Results

The 4 May Local Government results were one of the worst results on record for Labour. Labour lost 319 council seats whilst the Conservatives gained 317.

The council results now mirror the kind of north-south divide that bedevilled Labour in the 1980s and early 1990s, when the party had virtually no MPs (outside inner London) that were south-east of a line from Bristol to the Wash.

Key labour loses were at Crawley, plus the London boroughs of Brent, Camden, Ealing, Lewisham, Bexley, Merton, Hounslow, Hammersmith and Fulham, and Croydon. Of all the results, perhaps Labour's loss of Camden to no overall control was most unexpected as this has been seen as a Labour stronghold almost since records began!

From a planning perspective, the irony could be that Labour Councils are often be more pro development (notwithstanding growing list of planning gain requirements) than Conservative or Liberal Democrat Councils. This is because Labour Council's tend to place greater emphasis on urban regeneration and encouraging public private partnership wherever possible in the development process.

The new Conservative Councils may prove to be more resistant to this type of development – especially higher density residential developments which newly elected councillors on the planning committee might see as being out of keeping with the existing built form – despite pressure from Ruth Kelly to do otherwise.

Crown Immunity

The Crown's immunity from the planning system disappears on 7th June. After that date any development by the Crown (including Government Departments) will require permission.

The key differences between Crown Land and others will still be:

- Enforcement action cannot be taken against the Crown.
- There will be a change to the UCO to introduce a new Class (C2A) for secure residential accommodation.
- There will be additional GPDO rights for operational Crown Land.
- There are provisions for withholding some, or all, details and applications in cases of national security.
- There are provisions for a fast track planning process for urgent crown developments that are of national importance.
- The Crown will still be immune from the provisions of the Ancient Monuments and Archaeological Areas Act 1979.
- Any existing “approved” notification will automatically become permitted development.
- Any Notification which is “in the system” will automatically convert into an ordinary planning application.

For further information please see attached CgMs News Bulletin and contact Erica Mortimer at erica.mortimer@cgms.co.uk



[View the CgMs Bulletin on Crown Immunity >>](#)

Supermarkets Under Attack

Some two months after it was announced the Competition Commission has commenced its 18-month investigation of the grocery sector. The Commission is concerned that the big four supermarkets own land in quantities that it says “could aggravate barriers to entry or otherwise harm consumers”.

It also suggests that competition may be distorted because the big supermarkets have large buying power at the expense of those who supply them. Prices and costs are likely to be key factors.

A major concern is about the planning system. The briefing states “the planning regime acts as a costly barrier to entry, making it difficult for new stores to open and compete with those already in the market”. It is estimated that the enquiry will cost the industry £40m with the commission’s budget at least £3m, with a team of about 15 economists and analysts supporting the 5-man enquiry panel.

Design at Appeal

The Commission for Architecture and the Built Environment (CABE) has published this advice to ensure that high quality buildings and spaces are achieved through good planning. CABE feel that appeals should be seen as a last resort but they are an important part of the planning system as such decisions can greatly affect the way future applications are devised, negotiated and decided.

National, regional, and locally important design objectives should not be compromised by ill-founded perceptions of what will or will not stand up at appeal. It is important that all parties involved in appeals understand how to deal with design issues and give them their appropriate attention. The guidance sets out how to achieve this under the following headings:

- Use clear, positive policies
- Use expert design advice
- Design is more than aesthetics
- Explain your case

ENVIRONMENTAL ASSESSMENTS

EIA European Court Ruling

The European Court of Justice has ruled that DETR Regulations stating that an EIA is only needed at outline stage during a multi-stage process is wrong. The Courts ruled that even if the need for an EIA is not identified until the reserved matters stage the EIA should still be undertaken and should assess the whole project which could lead to an outline application being revoked or modified if necessary.

The case was brought by the Crystal Palace Campaign after the London Borough of Bromley gave planning permission for a cinema complex in Crystal Palace Park in 1999. The Council considered that an EIA could not be required as outline planning permission had already been granted without an EIA.

How to avoid a situation where the question of the need for an EIA may arise at the reserved matters stage? Applicants will need to provide sufficient information with regard to the scheme for local authorities to adequately assess at outline stage whether an EIA is required throughout the planning process. An illustrative layout of the proposed development with parameters set out in terms of total floorspace, number of units, heights of buildings, or site coverage would assist in giving the local authority a more informed understanding of the likely impacts of the project.

Alternatively, if the outline application merely relates to the change of use of a site with little information of the quantum of proposed development applicants must be aware that an EIA may be required at reserved matters stage and resources to pay for this would need to be set aside for this. There is also the added uncertainty of a scheme being refused or modified if the EIA shows that improvements cannot be mitigated without major changes to the scheme.

There may be cases where the preparation of the detailed scheme does raise environmental issues that could not have been envisaged at the outline stage or indeed circumstances may change in between the outline and reserved matters stage.

If in doubt a screening opinion should be submitted at reserved matters stage or an EIA carried out for the project even if this has not been specifically requested.

For further information on this ECJ ruling please contact either Valerie Scott at valerie.scott@cgms.co.uk or Richard Tilley at richard.tilley@cgms.co.uk

Changes in Planning Law

A number of dates have now been set out for changes brought about by the Planning and Compulsory Purchase Act 2004:

- Design and access statements for outline planning applications required from 10/8/06
- Decisions on major planning application timings increased to 13 weeks from 10/5/06
- Local development orders applicable from 10/5/06
- Any mezzanine over 200 m² requires planning permission from 10/5/06

Sustainability Appraisals

These documents form part of the new Local Plan process. However they are also required from time to time by Local Authorities to support planning applications. In London, for instance, the Mayor has issued a toolkit for carrying out these sustainability appraisals.

For further information contact Richard Tilley at richard.tilley@cgms.co.uk or Erica Mortimer at erica.mortimer@cgms.co.uk

Natural Environment Enhanced

The Natural Environment and Rural Communities Act 2006 has now come into force and its provisions will be introduced progressively. The Act creates a duty for public and statutory bodies to integrate biodiversity into their decision-making, further protects sites of Special Scientific Interest from damage and clarifies national parks legislation.

The Act establishes two new bodies: Natural England, which brings together English Nature, parts of the Countryside Agency, and most of the Rural Development Service and secondly, the Commission for Rural Communities, which is designed to be a “national rural advisor, advocate and watchdog”. Natural England and the Commission for Rural Communities will be formally established on 1st October 2006. English Nature and the Countryside Agency will be wound up on the same date.

Planning for Biodiversity

A good practice guide – the companion to PPS9 – has now been published and offers “help and advice to local authorities on how to encourage biodiversity and geological conservation within planning decisions and development with information and best practice examples, including using web-based technology, and how to integrate conservation inter planning for new developments.”

The guide says that this will help develop the strong evidence base needed to produce LDDs to ensure the sustainability appraisal is properly applied and that the adopted plan accords with principles of sustainable development. Local authorities are advised to examine all relevant plans and programmes at the pre-production stage.

Further new guidance has also been issued – Local Sites: Guidance on their identification, Selection and Management. There are about 35,000 Local Sites in England variously described as Sites of Importance for Nature Conservation (SINCs), Sites of Nature Conservation Importance (SNICIs) and Regionally Important Geological Sites (RIGS). Defra

recommends that the term Local Site, Local Wildlife or Local Geological Sites, should be used as standard.

The guidance proposes frameworks, standards and roles for Local Sites' selection, protection, management and operation. It says that site owners should, where possible, be contacted and asked for access permission to survey and monitor potential "Local Sites", offering them the opportunity to raise any issues.

CgMs NEWS

PLANNING

Public Exhibition of Proposals for a new Homebase store in Witham

A public exhibition was held on 12 May 2006 in the Town Hall in Witham to explain to members of the public proposals for the redevelopment of the Swanvale Industrial Estate in Witham, Essex. Swanvale Management Limited has entered into a lease agreement with Homebase to redevelop the existing site to the north of the town centre to provide 15 industrial units together with a new Homebase DIY store and garden centre, together with car parking and landscaping.

The exhibition gave local residents, businesses, Councillors and other interested parties the opportunity to come in and view the plans and talk to members of the developer's professional team about the proposals. It is intended that the planning application will be lodged in June.

There is a dedicated page elsewhere on our website where the proposals can be viewed and comments made online."

For more information please contact Steve Wilson at steve.wilson@cgms.co.uk

Design Advice to Inspectors

The Planning Inspectorate published design advice for its Inspectors at the end of April. The advice seeks to bring together guidance on design found elsewhere in PPGs and PPSs as well as in "By Design", the companion guide to PPG3 on Housing.

Whilst there is nothing radically new in the advice, CgMs advise clients to be mindful of it and to seek to reflect the key themes of the guidance when designing proposals. We anticipate that Inspectors will pay close attention to the advice when determining appeals so it is even more important to deal with the issues raised in the guidance at the outset to show that they have been taken into account at all stages of the application and design process. The following link takes you to the Planning Inspectorate's website where the Advice is to be found: http://www.planning-inspectorate.gov.uk/pins/appeals/inspector_advice_design.html

For more information please contact Steve Wilson at steve.wilson@cgms.co.uk

Westlands Industrial Estate, Hayes

CgMs planning have recently obtained planning permission for the construction of a 12,000 sq.m - 24 hour distribution centre in the London Borough of Hillingdon on behalf of British

Steel Pension Fund. Planning permission was originally granted at the planning committee meeting held in October 2005. However, members imposed a condition restricting the hours that HGVs could visit the site. An application was submitted to remove this condition but members refused this against officer's recommendation. The subsequent appeal against this decision was successful and the condition was removed allowing the centre to operate on a 24 hour basis.

For more information please contact Steve Forman at steve.forman@cgms.co.uk

Land Adjacent to Cell Farm Cottage, Loughton, Milton Keynes

CgMs Planning and Historic Building teams have recently won an appeal for the construction of five dwelling houses in Loughton, Milton Keynes. The site was previously used as a paddock for the Grade II listed farmhouse which is situated next to the site and is also within a defined linear park and adjacent to the Loughton Conservation Area. The appeal scheme comprised a terrace of traditional cottages across one corner of the site which enabled the rest of the site to be opened up to the public and enhance the character of the Conservation Area. The Inspector found that the proposal would not have a harmful effect on either the listed building or the Conservation Area and would in fact enhance the character of the linear park rather than be detrimental to it.

For more information please contact either Steve Forman at steve.forman@cgms.co.uk or Mark Sanderson at mark.sanderson@cgms.co.uk

HISTORIC BUILDINGS

Watford Central Baths Site, Watford

CgMs' Historic Buildings Team has secured Conservation Area Consent for the demolition of a group of unlisted buildings including the Central Baths and a WW2 air-raid shelter, as part of an application to redevelop the site as a comprehensive leisure facility. Agents for the Local Authority, Watford Borough Council employed CgMs to undertake a full review of buildings on the application site and consider their contribution to the Civic Core Conservation Area. Our 'Conservation and Heritage Statement' found that the buildings did not make a positive contribution to the character or appearance of the conservation area and as such supported the case for their demolition and redevelopment. The application was considered by Go-East, the Government Office for the East of England, on behalf of the Secretary of State and the decision to grant consent was given on 16 May 2006. In their decision notice, Go-East concurred with CgMs' assessment stating "the First Secretary of State is satisfied that the buildings add little visual amenity", "he agrees with the replacement of the Baths with a structure of high quality design", "the bunker is no more than typical of its type" and "the proposal would be a marked improvement that would positively enhance the visual quality of the conservation area". Conditional planning approval followed suit later in May and CgMs is likely to undertake a recording exercise on the existing buildings prior to their demolition.

For further information please contact Danielle Pickard at danielle.pickard@cgms.co.uk or Jonathan Edis at jonathan.edis@cgms.co.uk