

PLANNING NEWSLETTER

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LATEST NEWS

“Whilst the property industry was on holiday, Communities and Local Government were busy proposing further changes to planning policy and procedure. Highlighted below are some of the most significant proposals and decisions made during the summer recess.”

During the summer break, Communities and Local Government has continued its drive forward the reform the planning system, as prescribed in the Planning White Paper (see our summer newsletter – issue 18) so that it can deliver its sustainable communities agenda.

Of key importance is the Government’s Housing Green Paper of July 2007 which seeks to introduce a series of inter-related planning initiatives so as to deliver the identified shortage of 3 million homes in England by 2020. These measures and some of the key issues that the Housing Green Paper presents are given in our Housing Green Paper News Bulletin.

HOUSING GREEN PAPER

South East Regional Plan

The issue of whether the Government can actually achieve the 3 million houses by 2020 already looks set to be highly questionable in light of the August report on the regional assembly’s draft south east plan. The planning inspectors rejected the 38,000 new houses per year in South East as sought by the Government to only 32,000 homes built each year, a total of 640,000 by 2026.

The report proposes six strategic development areas in Milton Keynes, Oxford, Reading, Fareham and Hedge End, Hampshire, to accommodate up to 5,000 new homes each. It also considers that there should be selective green belt reviews around Guildford, Oxford and possibly Woking.

The other policy document of note currently subject to public consultation is The Validation of Planning Applications – draft guidance for local planning authorities published in August 07.

The Government proposes that “as part of its drive to provide quicker, more predictable and efficient planning service, that a new standard electronic planning application form be introduced and new information requirements for the validation of planning application forms by Local Planning Authorities.”

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The validation criteria for an application is to comprise, firstly and as minimum a national core list of statutory requirements and secondly a local list which individual local planning authorities have adopted themselves drawn from a recommended nationally defined list.

Whether the objectives of a “quicker and predicable and efficient planning service” will be achieved is highly questionable. Firstly, applicants will have to comply with what is in effect an ever growing list of information that has to be provided just to get the application registered and this list looks set to increase as Local Authorities will set out their own specific requirements.

There is also the issue that Local Planning Authorities are assessed by whether they have determined planning applications within the statutory 8 week (or 13 week for major applications) time period. This consultation paper reinforces the need to ensure that all supporting information and negotiations have been completed and agreed as far as possible prior to the validation of the planning application.

We therefore see this as just another reason why the applicant has to be prepared for up front costs so as to maximise the prospects of obtaining a negotiated planning permission. If this approach is not taken there is the increasing risk of a planning refusal simply because of the expiry of the time period – even if the application might be acceptable in principle but details still remain to be agreed.

GREATER LONDON AUTHORITY ACT 2007

This new Act gives more powers to the Mayor and Assembly.

The Mayor will be able to:

- Publish a London housing strategy, setting out his strategic housing investment priorities for London;
- Determine planning applications of strategic importance in London*;
- Publish a strategy for reducing health inequalities between Londoners;
- Address climate change; publish a London climate change mitigation and energy strategy and an adaptation to climate change strategy for London.

The Act will be introduced in three stages. The budget provisions (sections 12-16) come into force immediately. Most other provisions will apply early in the New Year except for those on development control (sections 31-36), waste and the Museum of London which will be brought in early next April.

* There will be an order (under section 2E of the Town and Country Planning Act 1990, inserted by section 32 of the GLAA 2007) to explain this phrase. It will include listed building, conservation area and hazardous waste applications.

Housing Strategy

This must contain

- an assessment of conditions and the need for new housing
- policies and proposals for meeting need

- a statement of how the needs will be met
- spending recommendations

It must be sent to the Secretary of State before publication, to make sure the strategy is consistent with national policies. If the Secretary of State makes any directions he must consult the Mayor first, who must comply before publishing the strategy.

Planning

Mayor can direct amendments to a borough's development plan scheme (which the Secretary of State can overrule).

Development Control

There will be a public consultation about the new powers before they are finalised in secondary legislation.

The Mayor will have the power to direct that he is the local planning authority for determining, enforcing and entering legal agreements in relation to applications of potential strategic importance.

He will be able to direct that reserved matters for such planning applications may be determined by the original local planning authority.

He must consult the borough planning authority before entering a legal agreement, which can then be enforced by either.

For further details please contact Deborah Stephens at deborah.stephens@cgms.co.uk

NEW FROM THE LABOUR PARTY CONFERENCE

At the recent Labour conference in Bournemouth, Gordon Brown announced that the government intends to build ten of the sustainable new settlements.

Whilst the Government only previously intended to plan five "eco-towns", the widening strategy by the Labour government seeks to assist in accelerating housebuilding rates from 170,000 to 240,000 homes a year and part of a package of regeneration-related policies.

The Prime Minister stated that the Eco-towns will "respect our green spaces and the environment," the prime minister said. One of the first eco-towns is proposed for Hanham Hospital, in South Gloucestershire, where English Partnerships has recently undertaken a community consultation event.

Also at the conference, junior housing minister Iain Wright revealed that the Department for Communities is considering giving powers back to local authorities to build their own housing stock. The suggestions are to allow Councils to borrow money to build affordable housing in their areas. Ministers are not able to reveal any further details at this stage, but stated that a new generation of council-built homes was a priority for a government determined to tackle the housing crisis, stating that "there is a need for local authorities to get involved in building council housingnot to the exclusion of everything else, but we want to see what we can do to reduce their disincentives."

For further information, please contact Richard Tilley at richard.tilley@cgms.co.uk

PLANNING

Abandoned or Un-abandoned? – That is the question

Background

CgMs was instructed to submit a Certificate of Lawful use to establish the residential use on an old farmhouse which had been unoccupied since 1981. Previously a planning application had been refused by Stroud District Council in 2004 for the alteration, extension and refurbishment of the dwelling, with one of the refusal reasons being that it considered that the residential use had been abandoned. This decision was appealed and dismissed with one specific element of the decision highlighting the landlord's lack of action over a considerable period contributing the abandoned status of the property. CgMs were instructed at this point and it was considered that a certificate of lawful use would be the best approach. Unfortunately this was also refused by the Council as it maintained that the residential use of the building had been abandoned and the evidence submitted did not satisfactorily demonstrate otherwise. A second application was then prepared with additional evidence which was felt to demonstrate beyond any doubt whatsoever that the use had not abandoned. However, the Council viewed the application differently and refused the certificate for reasons similar to the earlier application. Both decisions taken to appeal and dealt with by hearing.

The Result

For the second submission extensive research and negotiations were undertaken with additional evidence being gained in the form of an affidavit from the former estate manager and rent reviews which stated that the tenant, an elderly man, was 'difficult and awkward'. The Inspector dismissed the first application due to the fact 'the cottages condition was not apparent as it was largely masked in ivy'. Therefore the Council was correct in concluding the property was abandoned with the evidence which was submitted at that time.

However, with the additional information submitted with the second application and the fact that the building was repaired with no rebuilding required on the advice of CgMs. The appearance was now fully assessable and the Inspector also considered the fact that the tenant was elderly and awkward as a credible reason for not pursuing his eviction or removal as this could result in poor publicity for the landowner. It was on this basis that the Inspector considered that the residential use of the cottage had not been abandoned.

The key finding from this decision is that even though little works had been carried out on the building for some time, the intentions and diplomatic handling of the tenant were considered to be a credible reason for an apparent lack of action over such a long period.

For further information please contact Richard Tilley at richard.tilley@cgms.co.uk

CgMs meets the community

CgMs has recently undertaken a number of community involvement exercises.

Government policy now requires the community to be engaged in preparing development proposals at an early stage. We have therefore organised and worked alongside PR / communications companies in numerous exhibitions, workshops and consultation events.

In the past month, CgMs has worked alongside Green Issues and Holder Mathias architects in preparing a 2 day exhibition to present the latest proposals for Upper Rissington in the Cotswolds, on behalf of Reland. The latest proposals displayed were for up to 400 dwellings alongside a village centre, sports / community hall, a park, employment space, the conversion of the Officers Mess and other attractive buildings, following the demolition of a number of aircraft hangars and other former military buildings.

The event was attended by over 200 people from the local community, the event was well received and formed the latest part of an extensive community consultation strategy over the past 2 years. The comments received are still being considered and will inform the masterplan before an outline application is submitted later this year.



CgMs also worked alongside Meeting Place Communications, Aaron Evans Architects and Nicholas Pearson Associates in preparing an exhibition on behalf of Linden Homes. This exhibition was also well attended and presented proposals for 27 dwellings laid out in a rural courtyard form, with associated open space.

For further information please contact Richard Tilley at richard.tilley@cgms.co.uk

ARCHAEOLOGY



Managing The Unpredictable Risk (292k) >>

HISTORIC BUILDINGS

Bradwell Wind Farm

CgMs provided evidence at the recent public inquiry at Bradwell-on-Sea on behalf of npower renewables for a ten turbine wind farm. Dr Jonathan Edis was an expert witness providing evidence on the impact of the proposed wind farm on the setting of the Grade I listed Saxon chapel, St Peters-on-the-Wall. Maldon District Council refused planning permission for the wind farm on the due to the perceived impacts upon the landscape character and the impact upon the listed building. The Inspectors decision to allow the wind farm to go ahead stated that the wind farm would not cause significant harm to the setting of the listed building and that the landscape was able to accommodate such a development as demonstrated by CgMs. The decision to permit the wind farm comes after a spate of recent refusals across the country on built heritage or landscape grounds.

For further information please contact Liz Stephen at elizabeth.stephen@cgms.co.uk

59 Ladywell Road, Lewisham

The CgMs Historic Buildings Department formed part of the winning Inquiry team at Ladywell, where an appeal was allowed for the demolition of the existing factory building and the construction of B1 floorspace and 14x 2-bed flats.

The existing building, commonly known as the Adhesives Factory, is a locally listed building

set within St Mary's Conservation Area. One of the key issues addressed by the Inspector was whether the replacement of the locally listed factory with the proposed development would preserve or enhance the character of the conservation area. In depth investigation by CgMs' Researchers uncovered that the perceived history of the building, as set out in the conservation area appraisal, was incorrect. Having considered CgMs' evidence at large, the Inspector found No 59 Ladywell Road to make "no contribution at all to the 'special architectural or historic interest' of St Mary's Conservation Area". He went on to state that he did "not support the Council's view that No 59's successive stages of evolution, in themselves, give it any special interest".

For further information, please contact Jonathan Edis at jonathan.edis@cgm.co.uk

GENERAL

CgMs- Hong Kong University UK Study Tour 07

Last month, CgMs played host and welcomed an enthusiastic group of undergraduate students from the prestigious University of Hong Kong. A visit to CgMs' London office was part of their UK Study Tour visit in which an invigorating and captivating presentation was given by our Director, John Stockdale, and Associate Director, Danielle Pickard. The presentation was based on the Planning and Building Conservation in UK and CgMs' own planning practices. It gave the visitors an invaluable insight on the practices of UK historical building conservation through CgMs' own experiences in the field.

After the event, the students were very buoyant and thankful even though they were clearly suffering from jet lag.

One of the students said ; " (the presentation) was very interesting and gave us a lot of insights about the planning conservation in UK".

We would like to take this opportunity to wish future success to the students and hope that they have found their visit to CgMs both helpful and enjoyable.

