

# PLANNING NEWSLETTER

Issue 17 Part I Spring 2007

## LATEST NEWS

### THE GOVERNMENT'S GREEN AGENDA – A NEW PLANNING ERA

The Government considers that if left unchecked, the impacts of global warming will have impacts on the social and economic well being of the UK, as well as disproportionately affecting those most disadvantaged groups in society.

To mitigate these projected environmental impacts, CLG in December 2006 and January 2007 announced various planning initiatives which are summarised in this bulletin. These are:

1. Planning Policy Guidance Note 25: "Development and Flood Risk" and the associated 2007 Flooding Direction.
2. "Planning and Climate Change": Consultation Document December 2006.
3. "Code for Sustainable Homes": December 2006.
4. "Building a Greener Future: Towards Zero Carbon Development", Consultation Document, December 2006.
5. "Water Efficiency in New Buildings": Consultation Document, December 2006.

### Relevance

These measures are either, or will soon be, key planning considerations in determining all future planning applications in England. If the development proposal does not comply with these "green policies", planning permission is highly likely to be refused unless there are overriding other material considerations.

### Implications for Property Developers, Investors and Occupiers

1. The carbon free agenda will increase the costs of development
2. Development proposals – even if the principle is acceptable - will take longer to prepare and negotiate.

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3. The measures give a greater role of the Environment Agency in the negotiations of planning applications.
4. The low carbon energy requirements (10% of the energy supply to the building) will be controlled by planning condition or section 106 agreement.
5. For major developments, it will be necessary to address the environmental performance of the buildings.
6. The environmental impacts of decentralised and renewable sources of energy – such as wind turbines on buildings or solar panels - are considered to be acceptable costs in terms of landscape and townscape in areas outside nationally recognised designations (such as Areas of Outstanding Natural Beauty, Conservation Areas or Listed Buildings).
7. This “Green Agenda” is somewhat at odds with the 2006 Treasury backed Barker Review which seeks to support the UK economy by cutting down the burden on business of providing too much detailed planning information in support of major applications and seeks to make a presumption in favour of development so as to assist economic growth – including housing development.

### **What can I do to protect my commercial interests?**

Make representations to the following consultations by 8/9 March 2007:

- Draft guidance on “Planning and Climate Change.”
- Building a Greener Future Towards Zero Carbon Development.
- Water Efficiency in New Buildings.

For further details contact Erica Mortimer at [erica.mortimer@cgms.co.uk](mailto:erica.mortimer@cgms.co.uk) or Mike Straw at [mike.straw@cgms.co.uk](mailto:mike.straw@cgms.co.uk)

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## **BARKER REVIEW**

### **PLANNING FOR ECONOMIC GROWTH IN THE 21ST CENTURY**

The long awaited Barker Review of Land Use Planning has now been published by HM Treasury, in association with the Department for Communities and Local Government.

If implemented, this represents a radical and pro development overhaul of the planning system.

#### **Why does it concern me?**

The Review has fundamental implications for all landowners, investors and occupiers of commercial and residential property because the planning system controls the supply of land and buildings and determines capital values. It could also have a significant effect on public sector policy makers who have major infrastructure or other government national policy proposals to implement.

## What are the key recommendations?

- Economic benefits of development to be a key material planning consideration in determining planning applications
- Presumption in favour of development
- Planning Gain Supplement
- Reform of the Business Rate relief
- Review of Green Belt boundaries
- Removal of the “Need Test” and increased competition
- Major Infrastructure Projects to be speeded up
- Speedier Planning System

### Next Steps

The Government will now consider these proposals and, where necessary, will introduce new planning legislation as announced in the Queen’s Speech 7th November 2007 to implement the proposals.

For further details contact Erica Mortimer at [erica.mortimer@cgms.co.uk](mailto:erica.mortimer@cgms.co.uk) or Mike Straw at [mike.straw@cgms.co.uk](mailto:mike.straw@cgms.co.uk)

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## TALL BUILDINGS

CABE and English Heritage have published a Consultation Draft of new guidance on tall buildings.

It recommends that LPAs prepare policies on tall buildings and define suitable locations for tall buildings in the LDF documents.

It recommends that LPAs carry out character appraisals in order to identify areas where tall buildings are considered appropriate. More detailed 3D urban design frameworks may be needed as SPDs.

Planning applications for tall buildings should have full visual supporting material including assessments of all significant views with methodical verifiable 360 degree view analysis.

The report states that a full EIA is likely to be required and normally outline applications will not be appropriate.

The report sets out suggested criteria for the tall building assessment.

Both CABE and English Heritage recommend early pre-application discussions for any tall building proposal.

Responses are invited by 1st May 2007.

For further details contact Erica Mortimer at [erica.mortimer@cgms.co.uk](mailto:erica.mortimer@cgms.co.uk) or Mike Straw at [mike.straw@cgms.co.uk](mailto:mike.straw@cgms.co.uk)

## **BEST PRACTICE GUIDANCE ON LISTED BUILDING PROSECUTIONS**

A new guide, published in December 2006 by Communities and Local Government, will help councils take enforcement action against those who ignore or flout the rules which protect the country's most historic buildings.

The Best Practice Guidance Note on Listed Building Prosecutions, addressed principally at local authority conservation and planning officers, seeks to increase awareness of the powers held by councils and other prosecuting bodies as part of the listed building enforcement regime.

The guidance note recognises that the prosecution route can be costly both in terms of time and resources and urges LPA's to consider the full range of alternative actions that are available to them and which may be better suited to meeting their conservation objectives. Most LPA's have limited conservation resources and it seems if they can be persuaded to do so, many would prefer to go down these alternative routes.

The lack of detailed list descriptions for most listed buildings brings with it a requirement to establish beyond reasonable doubt that alterations have had an effect upon the historic or architectural merits of the listed building. In this respect the guidance acknowledges that this should be carried out by appropriately experienced experts who will be well placed to determine the level of damage or harm done.

By demonstrating to the courts that the damage has been assessed and is such that the historic and architectural merits of the listed building have not been compromised, the level of fine can be considerably reduced. CgMs has provided this service to clients on several occasions. The Guidance Note is therefore a timely reminder of the importance of assessing the actual level of harm caused when a prosecution is brought against the owner of a listed building.

For more information please contact Greg Pugh at [greg.pugh@cgms.co.uk](mailto:greg.pugh@cgms.co.uk)

## **COMMUNITIES ENGLAND**

A national housing and regeneration agency has been announced by the government to carry out a major shake-up of the way that homes and sustainable communities are delivered.

Communities England will be formed by bringing together the functions of English Partnerships, the Housing Corporation and some of the work of Communities and Local Government, with the aim of a fully operational organisation as soon as possible.

The new agency is predicted to have more than £4 billion of public funds at its disposal. It has been set up to pioneer innovative and more efficient ways of working with key partners in the public, private and voluntary sectors to maximise the value of public sector investment in regeneration and housing. It is expected to be operational in 2009 after primary legislation has been finalised.

Communities secretary Ruth Kelly has said that dealing with a single agency will be much easier for local authorities. "Communities England will be a new delivery partner for local authorities, supporting them in strategic place-making and ensuring that decisions better reflect local and regional priorities."

The housing sector has also welcomed the creation of the new quango. Housing Corporation chairman Peter Dixon maintains that by combining the expertise of the two agencies, Communities England will be better placed to introduce improved methods for working in partnership with both social landlords and private developers. It is predicted that the agency will work more closely with local authorities to ensure that land is made available for development, says Dixon. "Communities England will cut red tape and combine national scope with local effectiveness," he predicts. This view, however, is not shared by all as the length of time taken to set up the new agency, and the number of questions still unanswered regarding the agency's role and the Government's failure to deliver all of the detail have disappointed some in both the public and private sector.

The first step in the formation of the new agency will be the production of the Communities England mission and objective paper, due to be published by DCLG in February of 2007.

As yet, little is known about the precise function and remit for the new agency, but it is likely to take on a much more proactive role in delivering social, economic and physical regeneration, particularly in deprived communities, or where the market is failing to deliver. RSL's may also need to target their future funding bids to how it will contribute toward community regeneration.

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## **CgMs NEWS**

### ARCHAEOLOGY

#### **Newark Office Project featured in Current Archaeology**

Field Work on this project was in 2004/2005 and the report was issued in September 2005 but as it is in the latest edition of Current Archaeology it's still news. The attached picture shows the early building after the later additions had been demolished.

Sinai Park, Branston, Burton-upon-Trent was a redundant farm complex that had planning permission for conversion to several residential units. It was not listed but was adjacent to the Sinai Park moated site Scheduled Ancient Monument. The company was commissioned to carry out a full building recording and interpretation. Initially it seemed to be an early L-shaped building with timber framing at first floor level incorporated into a 19th C model farm complex. The timbers of the earlier structure were thought to have been re-used. Dendrochronological analysis identified two phases of construction of the earlier buildings to 1499 & 1635. Detailed comparative analysis showed that they are in-situ. The SAM belonged to the Abbey of Burton-upon-Trent and the farm dates match those of the SAM construction. This project which identified a previously unrecognised medieval farm was entered into the 2006 British Architectural Awards and is featured on page 7 of the January/February 2007 edition of Current Archaeology. The results were presented at the Staffordshire Archaeology day in 2006 and in January 2007 to the Stafford and Mid-Staffordshire Archaeology Society. Proposals for a paper are being considered by the Vernacular Architecture Group Journal.

The editor of Current Archaeology selected the Newark Office's Sinai Park Farm project as an example of the important work resulting from PPG 16 conditions being carried out by developer funded archaeologists. Without developer funding this newly recognised

medieval building may well have been demolished.



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## PLANNING

### **Change of Use Secured for Land Securities at West 12**

CgMs have secured changes of use to A3 for two ground floor units at the West 12 Shopping Centre at Shepherds Bush on behalf of Land Securities. Planning permission was submitted to the London Borough of Hammersmith and Fulham for the change of use to A3 or A5 in September 2006. We submitted a comprehensive supporting planning statement with the application in order to overcome the Council's policy which seeks to protect A1 frontages within designated Town Centres and Prime Shopping Frontages.

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