

PLANNING NEWSLETTER

Issue 20 Part I Winter 2007/08

LATEST NEWS

Since our Autumn 2007 web news there has been no let up in the various planning related measures being proposed by Communities and Local Government so as to make the English Planning system more responsive and effective in meeting the Government's objectives of delivering sustainable development and combating climate change.

In this winter 08 web news we highlight the following key measures.

NEW PLANNING LEGISLATION



[View the CgMs Planning Bill Bulletin >>](#)

In line with the Planning White Paper – see our previous bulletin – the Planning Bill was laid before Parliament in November 2007 and it is anticipated to receive Royal Assent by the end of 2008. Our bulletin summarises the Planning Bill's key measures. These include the that major infrastructure applications – such as roads, rail, power stations and airports, will be made through a single consent regime and the application will be determined by a newly created Infrastructure Planning Commission (IPC) and not the Local Planning Authority.

The IPC have to take into account in making their decisions new National Policy Statements relating to major infrastructure projects. Consultation on NPS's is programmed for Autumn 2008

The Bill also proposes the introduction of the "Community Infrastructure Levy" which developers will have to pay towards the funding necessary of regional infrastructure as identified in the regional spatial strategy. The levy – which now supercedes the previously proposed "Planning Gain Supplement" will be set by "charging authorities" – which include the Local Planning Authority and the Mayor for London, will be set out in Supplementary Planning Documents. Further details have yet to emerge through a consultation paper which has not yet been published.

The Bill also proposes some significant changes to the planning procedures. Notable changes are the loss of the appellant to choose the methodology for the right to appeal – written representation, informal hearings and public inquiry – are now to be determined by the Inspectorate. There is also the controversial measure that there is also no right of appeal to the Inspectorate if the application is refused by a planning officer under the new powers which allow officers to determine certain small applications. Rather it is the Bill's intentions that such appeals should be determined by a panel of councillors from that Local Planning Authority. Other measures include the ability of applicants to vary permitted schemes without the need to submit a fresh application if such amendments are "non material."

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

NEWARK OFFICE

Newark Beacon
Beacon Hill Office Park
Cafferata Way, Newark
Notts NG24 2TN

Tel: 01636 653 060
Fax: 01636 653 065

KETTERING OFFICE

Ragsdale
1 Church Lane
Great Cransley
Northants NN14 1PX

Tel: 01536 790447
Fax: 01536 799378

BIRMINGHAM OFFICE

43 Temple Row
Birmingham
B2 5LS

Tel: 0121 237 6097
Fax: 0121 237 6100

THE PLANNING POLICY SYSTEM CHANGES AGAIN?

Streamlining Local Development Frameworks: Consultation Paper November 2007.

As part of the Planning White Paper's objectives of speeding up the delivery of local development documents (DPD), Communities and Local Government published for consultation in November 2007 changes to the public consultation procedures in the adoption of local development documents. The principal proposed changes are:

- to abolish the "Issues and Options" and "Preferred Options" stages with a single requirement to consult the public and stakeholders.
- Public consultation will need to take place on this document before the plan is submitted to the Secretary of State. The relevant plan making authority can also change the deposited plan so as past the soundness test in light of representations received. These proposed changes to meet the soundness test would be subject to further consultation prior to submission to the Secretary of State.
- Supplementary Planning documents (SPD'S) can be produced even if they are not in conformity with the development plan documents but where they conform to the Regional Spatial Strategy and national policy. This means that where the LPA wished to elaborate on RSS or national policy it does not need to create a new DPD. SPD's can also be produced by a Government agency, Regional Planning Body or a County Council for minerals and waste.
- Core strategies should identify the location of key strategic sites that are critical to the delivery of the core strategy. The aim is to identify the key strategic sites – such as housing - up front and not delay their identification to a site specific allocation DPD once the core strategy has been adopted.
- Core strategy to identify infrastructure needs to ensure delivery of the strategy – this will then help to inform the basis of the "Community Infrastructure Levy." The Core strategy is to also a lifespan of 15 years and not 10 as was previously the case.

The public consultation end on 19 February 2008. A summary of responses will then be made in March and then the new regulations issued and to be in force by 2008.

A NEW DEVELOPMENT LAND TAX?

The Community Infrastructure Levy

As set out in the Planning Bill, Communities and Local Government issued in January 2008 details of the proposed Regulations so as to implement the Community Infrastructure Levy (CIL). It is likely that the CIL will be in place and operating by Spring 2009.

In summary, CIL :

- will be a standard charge by designated "charging authorities" – including Local Planning Authorities – on most types of residential and commercial development, (i.e. only excluding householder development and development deemed to have permission under the General Permitted Development Order) .

- is to help fund the region's identified needs for infrastructure as set out in the Regional Spatial and/or Economic Strategy.
- receipts will be spent mainly on transportation infrastructure; however the levy will also be spent on the region's other infrastructure needs, including schools, parks, health centres, public transport, provision for pedestrians and cyclists and flood defences.
- will be levied on a certain amount per dwelling or per sq metre of development floorspace.
- will be formulated on both an assessment of the region's infrastructure needs and the increase in land value associated with the grant of permission for that specific land use in that locality.
- will be incorporated within either a supplementary or development plan document and be specified within a CIL charging schedule, to be updated to reflect changing land values and infrastructure needs.
- will be payable on the commencement of development either by the landowner or developer at that time.

Section 106 agreements will continue to be required where local impacts of the development still need to be mitigated – for example, the provision of a new access road and where mitigation measures are not financial contributions. However, section 106 agreements will continue to include the need to provide on site affordable housing – the affordable housing provision will not form part of the CIL.

Commentary

The CIL is in all but name a development land tax. Developers and investors will therefore need to ensure that both CIL and section 106 obligations and development plan policy requirements – such as for the provision of on site affordable housing and decentralised energy sources - are all fully taken in to account when assessing the viability of developments and in acquiring sites and buildings for development.

The linkage between increases in land values as a result of the grant of permission are most controversial; many disputes can be anticipated between the developer and the Local Planning Authority as to the viability of the development. The danger is that CIL could result in the Government's housing targets of 3 million new homes in England by 2020 not being met as housebuilders contend that their schemes are no longer viable and landowners hold off the sale of sites until land values rise.

MORE ON CLIMATE CHANGE

Supplement to Planning Policy Statement: Planning and Climate Change: December 2007

This guidance represents the planning aspects of the delivery of the Climate Bill's objectives to reduce UK carbon emissions by 60% compared to 1990 levels by 2050. The statement requires that Local Planning Authorities specify in their development plans a % target for decentralised and renewable or low carbon energy sources and applicants will have to demonstrate that their buildings are sustainable in terms of energy and use of resources.

The measures are to be enforced upon applicants by planning condition or by a section 106 agreement.

MORE NEW POWERS FOR THE MAYOR OF LONDON

Consultation on the draft Mayor of London Order and GOL Circular: Strategic Planning in London

Following the GLA 2007, which amongst other things, gives the Mayor new planning powers to determine applications – see our autumn newsletter – this consultation paper amends the thresholds for “applications of potential strategic importance” and the procedures that are to be undertaken in order for the Mayor to recover these applications for his own determination.

The applications of potential strategic importance are the same as the ones the Mayor already has powers of refusal as specified in statutory instrument 1493 of the Town and Country (Mayor of London) Order 2000. However the consultation proposes to reduce the thresholds for residential applications to be referred to the Mayor from 300 to 150 and the City of London will not have to refer applications to the Mayor where the development is under 100,000 sq m and are not more than 150m high – previously the threshold for such developments in the City is 30,000 sq m and 150m high.

The consultation periods ends 14/02/08.

ECONOMIC DEVELOPMENT – NEW DRAFT POLICY

Draft Planning Policy Statement 4 – December 2007



[View the CgMs PPS4 Bulletin >>](#)

This long awaited PPS has partly been produced by Communities and Local Government to reflect Kate Barkers concerns that the UK economy is being adversely affected by the planning system because hitherto planning decisions fail to fully take into account the economic benefits of development – in terms of wealth and jobs - that can be created by economic development proposals – including offices, industrial, warehouse and other development including retail and housing.

For further details as to whether the guidance live up to these expectations and a summary of what the key measures are please see our planning bulletin.

PLANNING PROCEDURES

Validation of planning applications

As from 6 April 2008 it will be mandatory for all planning applications to be made on a Standard Application Form for all of the following types of development.

- householder consents
- outline and full planning permission and approval of reserved matters
- listed building consent
- conservation area consent

- advertisement consent
- consent under Tree Preservation Orders
- Certificates of Lawful Development
- applications for prior notification /approval under the General Planning
- Development Order
- removal or variation of conditions.

This will require changes to the Town and Country Planning (General Development Procedure) Order 1995 to provide the mandatory use of the standard application form and for the new validation requirements by 6 April 2008.

There will also be new procedures for the validation of planning applications and Communities and Local Government published in December 2007 its “Best practice guide on the validation of planning applications”

In summary, all applications will have to have nationally required information – such as ownership certificates and design and access statements and plans and drawings. However, there will also be a local list – to be determined and then adopted by the Local Planning Authority – which will specify local requirements for additional information required to validate the application.

Planning Fees in England: Proposals for Change

- Following the Planning White Paper Package in May 2007, and the recommendations within it from Kate Barker in her report, Review of Land Use Planning (2006), it was decided that LPAs need to find ways to increase their income.
- The Department of Communities and Local Government have decided to obtain this income by increasing chargeable planning-related application fees.
- The Department of Communities and Local Government have published the consultation paper Planning Fees in England: Proposal for Change.
- Consultation closed on 17 August 2007, with 251 responses.
- With consultation responses now in, the preparation of a draft Statutory Instrument is being prepared for submission before both Houses for Affirmative Resolution in January 2008.
- This document has not yet been finished, but should be in the near future.
- The major changes proposed include:
 - An increase of 11% for household applications.
 - An overall 25% increase for other fees.

- A new maximum fee of £250,000 (or £125,000 for outline applications) for all except minerals and waste applications, for which the maximum will go up 25%.
- A new fee of £85 for 'requests for confirmation that a planning condition has been fulfilled'.
- The changes are due to take effect from 6 April 2008
- Examples of the fee changes are outlined below:

Four Examples		
	Current Fee	Proposed Fee
Application for a new dwelling	£265	£335
Application for householder consent	£135	£150
Application for change of use	£265	£335
Advertisement on business premises	£75	£95

For further information on all the above please contact Mike Straw at mike.straw@cgms.co.uk or Erica Mortimer at erica.mortimer@cgms.co.uk

CgMs GENERAL NEWS

ARCHAEOLOGY

150 High Street, Stratford

Genesis Housing Group has gained consent for housing-led development on a gateway site into London's 2012 Olympics Park in Stratford, east London. The housing association is proposing the redevelopment of a 1.3ha former light industrial site at 150 High Street, Stratford to create 655 apartments including 33% affordable housing, a 64,500 sq ft 153-bedroom four-star hotel, 10,736 sq ft of flexible offices and 27 workspace units. The 43-storey building will be one of London's tallest residential towers.

CgMs undertook an archaeological desk-based assessment and provided the archaeology chapter of the scheme's Environmental Statement. Following negotiations with English Heritage, CgMs were able to delay the requirement for trenching to a condition of planning permission which will be undertaken following demolition of the existing buildings.

For further information please contact Rob Bourn at rob.bourn@cgms.co.uk

HISTORIC BUILDINGS

Expedier House, Hindhead

CgMs Historic Buildings Team provided expert witness at the recent Public Inquiry that considered proposals for Expedier House, Portsmouth Road, Hindhead. CgMs supported

the appellant's proposal for the erection of an extra care home on the site of the unlisted Expedier House. The arts and crafts style design of the new build was considered by CgMs to be a high quality and appropriate design that would integrate sensitively with its surroundings. The Key heritage consideration however was the setting of the Grade II listed United Reformed Church.

The setting of the listed building was argued to concentrate in Tower Road, with the majority of the Appeal building falling outside the setting of the listed church. It was presented that views of the listed building already took in the existing Expedier House structure and that although of a large footprint that neighbouring properties when considering views of the listed building, the proposed extra care home would be a material enhancement. The Inspector concurred with CgMs' appraisal, stating in his Decision "I am persuaded by the appellants' evidence that the appeal site was never intended as land to form any setting to that building". He allowed the Appeal and proceeded to praise the proposed new build concluding "if the proposed building had been erected in the same year as Expedier House, it would now be possibly seen as a candidate for listing as a building of special architectural interest"

For further information please contact Dr Jonathan Edis at jonathan.edis@cgms.co.uk

Woodside, Larkhill, Worcester

Proposals have been granted for a group of modern terraced houses within the Larkhill Conservation area, following a recent Hearing Decision. CgMs' worked with the project team from design stage and supported the scheme at Appeal, following Worcester City Council's decision to refuse planning permission, conservation area consent and listed building consent. The arrangement of modern terraced houses set out in a curvilinear formation are wrapped around a hillside at the foot of a Grade II listed property known as Woodside. Proposals saw minimal alterations to the listed building and the demolition of a post war timber 'cabin' building and modern brick lean-to.

CgMs put to the Inspector that the proposals accorded with Local Plan Policy and demonstrated that the effect of the crescent-shaped appeal scheme on the listed building was acceptable, compatible and not considered to cause harm to its immediate setting or to distance views. On the point of the conservation area, CgMs presented that the scale and siting were appropriate to the topography and that these factors had been harnessed so as to have a minimal affect and to retain the character and appearance of the conservation area.

The Inspector agreed with our stance and found in favour of the appellant.

For further information please contact Jon Lowe at jon.lowe@cgms.co.uk

28-30 Mornington Crescent, London

On behalf of Anfil Limited, CgMs Historic Buildings Department provided expert witness at Public Inquiry that an Enforcement Appeal for 28-30 Mornington Crescent, London. CgMs supported the appellant's case, defending the enforcement from London Borough of Camden against unauthorised change of use and alteration of a Listed building within a conservation area. CgMs successfully demonstrated evidence which refuted the enforcement notices served by the Council on the grounds that most of the listed works do not affect the character of the listed building and are minor in nature and as such did not constitute a contravention; the remedial works stipulated by Camden Council would

not allow the building to be used as a house in multiple occupation, and may not allow the premises to be used at all, which may be detrimental to the upkeep and special interest of the listed building.

Having considered CgMs' evidence at large, the Inspector agreed with our stance. In regard to the change of use of the building, the Inspector directed that the enforcement notice be corrected by the deletion of part of requirement and allowed the appeal subject to the correction. The appeal on alternation was allowed in part and listed building consent for that part was granted.

For further information please contact Tina Garratt at tina.garratt@cgms.co.uk

PLANNING

City Academy, London

The London Borough of Hackney has resolved to grant planning permission for a City Academy at Homerton. The site lies directly opposite a Grade II* Listed National Trust property, Sutton House and lies adjacent to a conservation area. The four storey building, designed by Studio E architects, aims to be very energy efficient, using natural ventilation and allowing daylight to penetrate into the heart of the building. CgMs advised on planning and historic buildings.

For further information please contact Malcolm Honour at malcolm.honour@cgms.co.uk

Atkinson Morley's Hospital, Wimbledon

Acting on behalf of Laguna Quay Ltd, CgMs has secured a resolution to grant planning permission subject to a Section 106 Agreement and conservation area consent to regenerate this 9.95 hectare site in Merton. The site has been vacant since 2003 when the NHS decanted its services to St George's Hospital in Tooting.

The proposal involves the restoration and enhancement of the original hospital building for re-use as a state of the art private medical facility; refurbishment of the derelict sports pavilion, tennis courts and playing fields; the safeguarding & ongoing maintenance of the Metropolitan Open Land & Site of Importance for Nature Conservation which comprise the majority of the landholding; sustainable transport initiatives including provision of a dedicated pedestrian & cycle path and a new bus stop/turning facility; and refurbishment of the hospital accommodation at the Firs buildings.

CgMs's Planning, Historic Buildings and Archaeology Departments were all involved in working towards obtaining a successful decision at Merton's Planning Committee.

For further information please contact Will Thompson at will.thompson@cgms.co.uk

Parisfield, Staplehurst

Maidstone Borough Council has resolved to grant outline planning permission for the redevelopment of this backland site in the village of Staplehurst, despite a significant amount of local objection. The scheme involves the demolition of an existing house and redevelopment of the site to build 14 dwellings. A late objection from Natural England in respect of Great Crested Newts and bats was overcome by the incorporation of appropriate ecological mitigation measures.

For further information please contact Will Thompson at will.thompson@cgms.co.uk

Bousley Rise, Ottershaw

CgMs has secured planning permission for the demolition of three bungalows and construction of 11 houses in Ottershaw on behalf of Linden Homes Thames Valley. The development will provide sizeable dwellings and garden space on land located adjacent to the Surrey Green Belt. The Members of the Runnymede Planning Committee accepted that the proposal overcame all areas of concern raised by a Planning Inspector in relation to a previous appeal, which had established some key principles in 2006. Linden Homes Thames Valley have made a financial contribution towards enhancing natural green spaces in Runnymede Borough, because the site is located within 5 kilometres of the Thames Basin Heaths Special Protection Area.

For further information please contact Will Thompson at will.thompson@cgms.co.uk