



# Planning • Historic Buildings • Archaeology

## Specialist & Independent Advisors to the Property Industry

### Winter 2008 - Newsletter Part 1

#### Introduction

This winter 2008 newsletter gives an update of the key planning measures that are either now in place or are being proposed by Communities and Local Government. Specifically, we comment upon:

- The 2008 Planning Act
- The Killian Pretty Review
- Eco Towns
- The Heritage Protection Bill
- Changes to the General Permitted Development Order
- Other planning related measures

The 2008 Planning Act comes into force whilst property developers, investors and occupiers are facing very uncertain times given the "credit crunch" and the now the projected recession for the UK economy in 2009. How the planning system responds to these uncertain times remains to be seen as development, investment and occupier activity slows in light of unprecedented property market conditions.

However, it is our prediction that the viability of schemes will become an increasing important "material planning consideration" in the determination of planning applications, given that on the one hand there are falling land and capital values, and on the other, the increasing costs being put on developers from the planning system in relation to the need to make section 106 contributions and a Community Infrastructure Levy - as well as the on going development plan policy requirement to provide on site affordable housing and sustainable "green" buildings. The result is likely to be an increase in planning appeals where these issues cannot be resolved through 'open book' appraisals and/or 'tool kit' assessments as part of the negotiation of the planning application.

#### The 2008 Planning Act

In November 2008 the Planning Act received Royal Assent. The Act introduces a new planning system for the determination of applications for "**Major Infrastructure Projects**" - such as new power stations, airports, ports, road and rail infrastructure through the introduction of **National Policy Statements** and the **Infrastructure Planning Commission**. The Act also sets the legislative basis for the implementation of the "**Community Infrastructure Levy**." The Act also introduces other measures aimed at speeding up the determination of planning applications and the preparation and adoption of development plans. For more details please [click here](#).

#### Killian Pretty Review

Hard on the heels of the 2008 Planning Act, the Killian Pretty Review was published in November 2008 with a series of recommendations to Communities and Local Government as to how to speed up and simplify the planning system. The Government will respond in the spring of 2009 to these proposals - but early indications are the Communities and Local Government will respond positively to these sought changes. To find out more about these recommendations [click here](#).

#### Eco Towns

The Government has also published new draft guidance for the development of Eco Towns. To find out more [click here](#).

#### The Heritage Protection Bill - update

The Queen's Speech setting out the Government's upcoming legislative programme has excluded the Heritage Protection Bill which has become a victim of the Government's pre-occupation of legislative measures aimed at improving the UK economy.

However, the Government has promised to begin consultation on an updated Planning Policy Statement on the historic environment before the Easter Parliamentary recess next year.

In a joint ministerial statement from Culture Secretary Andy Burnham and Communities and Local Government minister Baroness Andrews, said:

*“The important thing now is that reform work on a range of fronts continues, and the momentum built up since the publication of the White Paper in March last year is maintained.*”

*Protecting heritage is an integral part of the planning system. One key area of reform will be the development of a new Policy Planning Statement which is clear and up to date and brings together planning policy on all aspects of the historic environment – the built environment, archaeology and landscape – and underlines their essential place in the planning context. We will work together to produce a draft PPS for public consultation before the Easter recess.”*

For further information about the **Heritage Protection Bill** contact:

**Jonathan Edis**  
020 7832 1485  
jonathan.edis@cgms.co.uk

**Rob Bourn**  
020 7832 1473  
rob.bourn@cgms.co.uk

## Changes to the General Permitted Development Order 2008

The Government introduced on the 1 October 2008 changes to the General Permitted Development Order. The changes are intended to make it easier for applicants to extend or alter houses without the need to obtain planning permission and the Government hopes that this will reduce 80,000 fewer planning applications annually.

The new rules will now allow both loft conversions and rear extensions. Non overbearing loft conversions will enjoy automatic permission. Rear extensions will no longer have a cap on volume.

Local authorities will be able to introduce local variations by using Local Development Orders to allow bigger extensions or Article 4 Directions to restrict development where necessary.

Ministers have stressed that the new rules strike a balance between allowing homeowners to make improvements and limiting the size of extensions so neighbours and neighbourhoods are protected from obtrusive development.

Planning minister Caroline Flint said: *“The new rules will cut out planning permissions for about 80,000 households a year and crucially saving as much as £1,000 in some cases – a real difference to already stretched family finances making home improvements an increasingly attractive option.”*

[Click here](#) to see more details of these changes in our bulletin.

## Other planning related measures made in 2008 and in the pipeline

There have also been two other Acts that will affect planning decisions. The first is the **Climate Change Act of 2008** which will set legally binding targets for the UK to reduce carbon emissions by at least 26% by 2020 and by at least 80% by 2050 compared to 1990 levels.

Closely related is the **Energy Act of 2008** which also seeks the reduction of carbon dioxide emissions through a series of measures, including the drive to more renewable sources of energy, including offshore renewable energy sources.

These measures will be increasingly used by Local Planning Authorities as further development plan policy justification of the need for buildings to be “green” and “sustainable” and provide on site renewable energy sources. This approach builds upon PPS22 requirement for Local Planning Authorities in determining planning applications to take into account the Government’s renewable energy targets and also supports the principles of the “Merton Rules” – whereby the London Borough of Merton set a target for all non-residential developments above a threshold of 1,000 m<sup>2</sup> to incorporate at least 10% of their energy needs from renewable energy equipment

For further information contact:

**Richard Atkinson** - Head of our Energy Team  
01636 653 060  
richard.atkinson@cgms.co.uk

The Government’s new legislative programme also gives three Bills of interest to property industry. There is to be a new **Local Democracy, Economic Development and Construction Bill** and the **Business Rate Supplements Bill** which will give new powers to local areas to tackle the impacts of the economic slowdown and to prepare for recovery.

These measures are aimed to give people and businesses a bigger say in local services and decisions affecting them.

Communities secretary Hazel Blears said: *“Strong and flexible leadership that allows local people to have their say will ensure the right decisions are taken and that money is spent on the things that matter most. In today’s tough times, it is even more important that we empower communities to shape their own lives and the services they receive.*”

*“The Bills announced in the Queen’s Speech will help us to achieve this - by giving communities practical ways to strengthen local democracy and new powers to deal with the current economic climate and prepare for economic growth in the future.”*

To be taken forward is to be the **Marine and Coastal Access Bill** which establishes an offshore planning regime - for example, the development of off shore wind farms - and also provides improved access to the UK coastline.

For further information on these measures contact:

**Erica Mortimer**

020 7832 1465

Email: erica.mortimer@cgms.co.uk

**Mike Straw**

020 7832 0252

Email: mike.straw@cgms.co.uk

## PPS4 and PPS6: Update

PPS4 - "Planning for Sustainable Economic Development" and revised PPS6 - "Planning for Town Centres" still have not be issued by Communities and Local Government.

Proposed revisions to the old PPG4, contained in draft PPS4, were issued over a year ago, whilst proposed revisions to PPS6 were issued back in July in 2008. The principle changes included in draft PPS6 were, as Hazel Blears stated to the House of Commons to:

*"Reinforce the town centre-first approach to ensure that development continues to take place in town centres and promotes their vitality, viability and character. We will retain the 'sequential test' which requires developers to justify why they cannot build in the centre before they seek to build out of town.*

*The proposals remove the 'need test' for proposals outside town centres—which has been shown to be a blunt tool—and introduce a new and broader 'impact test' to take better account of economic, social and environmental factors.*

*Our amendments do not include any specific policy proposals for taking forward the proposed planning 'competition test' for large grocery stores which was recommended by the Competition Commission in its final report on "The Supply of Groceries in the UK market investigation" (April 2008)."*

Given that the need to provide jobs and economic development has significantly risen up the political agenda, both of these two revised PPS's have now become interlinked and will, as we understand it, be issued at the same time early in the New Year.

For further information on these measures contact:

**Chris Hicks**

020 7832 1474

Email: chris.hicks@cgms.co.uk

**Malcolm Honour**

020 7832 1468

Email: malcolm.honour@cgms.co.uk

**LONDON**

Tel: 020 7583 6767

london@cgms.co.uk

**CHELTENHAM**

Tel: 01242 259 290

cheltenham@cgms.co.uk

**NEWARK**

Tel : 01636 653 060

newark@cgms.co.uk

**KETTERING**

Tel: 01536 790 447

kettering@cgms.co.uk

**BIRMINGHAM**

Tel: 0121 616 4850

birmingham@cgms.co.uk

**[www.cgms.co.uk](http://www.cgms.co.uk)**