

PLANNING FOR THE YEAR AHEAD

Welcome to **forward planning** January 2008 where we review some of the key recent planning news and publications. Planning is becoming an increasingly central element to a number of key policy decisions on the national agenda, not only in relation to sustainability and climate change, but also through major strategic planning decisions. Policy announcements are expected this year on nuclear power and the delivery of 3 million new homes and legislation is due to come forward on CrossRail and Heathrow. Gordon Brown has said 2008 will be a "decisive year" with long term decisions to be made for the future of the country:

"We will have to make . . . some of the big decisions about physically planning the future of the country"
Gordon Brown - Interview in the Observer 6 January 2008

In this issue of **forward planning** we review, in light of the Government's proposed changes to the Local Development Framework process, the progress made in delivering the new style plans. We look at changes to the Mayor of London's planning role that are due to be

strengthened this year and we review the provisional Competition Commission findings into the UK grocery market. We look at the long awaited new national policy on economic development which was published in December 2007 and will eventually replace the very dated PPG4. Finally, we comment on the proposed Community Infrastructure Levy as an alternative to Planning Gain Supplement.

We are looking forward to working with you in what promises to be an interesting and exciting year - wishing you a prosperous 2008 from all at GL Hearn.

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LOCAL DEVELOPMENT FRAMEWORKS -

What Progress?

As the 'new' development plan system enters its fourth year we ask - what progress is being made?

Upon commencement of the Planning & Compulsory Purchase Act in 2004, old style Local Plans were 'saved' for a period of 3 years. The Government expected that by the end of this 3 year period most Local Authorities would have their Core Strategy in place and some Authorities would have fully replaced their old style plans with new Local Development Frameworks. The 3 year period passed in September 2007 and progress has not been quite what the Government anticipated. As a result of the lack of progress made with new plans, most boroughs required the Secretary of State to 'save' significant amounts of policy beyond the initial 3 year period.

What's gone wrong? The delays experienced are not of surprise to most, but with only a handful of authorities having a Core Strategy in place and with about one in four plans that are produced being found to be of insufficient quality or 'unsound' the lack of progress is significant. According to recently published guidance by the Planning Inspectorate on "lessons learnt" the new system;

"Demands a completely different way of thinking about Development Plans. In many instances the extent of the change required by all involved has not been appreciated fully".

Despite this lack of progress we think that after more than 3 years there is "no going back" to the old system and the Government is committed to the new

system of spatial planning. We expect some refinements to the system as time progresses and the Government has recently issued a consultation paper on 'streamlining' plan production through amendments to Local Development Regulations and a draft replacement for Planning Policy Statement 12 (see below in *Proposed Changes to the Local Development Framework Procedures*).

With large amounts of old policy saved beyond the initial 3 year period there are legitimate concerns as to the amount of dated policy (in some cases very dated policy) that is in place with the adoption of new LDF policy some way off. The new system is very different and we see a need for pragmatism both by decision makers and Local Authorities as the new system beds down and its implications are fully appreciated.

NEW PLANNING POWERS FOR THE MAYOR OF LONDON

New powers for the Mayor of London and the London Assembly received Royal Assent in October 2007 and are expected to take effect on 6 April 2008.

The Act strengthens the Mayor's role by giving him the power to direct that planning applications of strategic importance should be determined by him in place of the Local Planning Authority. The Mayor also has new powers to

direct changes to the boroughs' individual Local Development Schemes (the work programme for preparing Local Development Frameworks).

A consultation paper on the draft Mayor of London Order and draft replacement to Government Office for London Circular 1/2000, that explains how the Mayor's new powers will operate, is subject to consultation until 14 February 2008.



The power to determine applications of strategic importance should be of particular interest to those promoting, or intending to promote, such schemes in London. As we have already seen, the Mayor's priorities are not always the same as the boroughs' and the ability of the Mayor to determine major applications is likely to bring this dynamic into sharper focus.

PROPOSED CHANGES TO THE LOCAL DEVELOPMENT FRAMEWORK PROCEDURES

The Government is consulting on proposed changes PPS12, along with draft amending regulations.

Published following the Planning White Paper "Streamlining Local Development Frameworks" the proposals focus on changes to LDF consultation arrangements, revisions to the plan making process and changes to the way Supplementary Planning Documents (SPD) are produced. The consultation period runs until 19 February 2008.

The proposals are the Government's answer to speed up the plan making process which is acknowledged to be running behind schedule. The overriding message is one of delivery, particularly of housing development. Headline changes include:

- Replacing the two stage Issues & Options and Preferred Options consultation with a single requirement for continuous engagement;

- A more liberal allowance for Local Planning Authorities to determine who should be involved, and;
- Formal representations to be made before Submission of the plan to the Secretary of State,
- The test of 'soundness' remains, but its definition is replaced with basic principles of 'justification', 'effectiveness', and consistency with national policy, and;
- LPA's will be allowed to prepare SPD in regard to national and regional policy (rather than solely local policy) and would be given the power to determine whether the SPD needs to be subject to Sustainability Appraisal.

Any changes to streamline the process are welcomed in principle and it is pleasing to see the Government is prepared to make refinements to the system. Whether the changes go far enough, and whether in the short term they will streamline the process or add confusion is debatable.

PLANNING FOR SUSTAINABLE ECONOMIC DEVELOPMENT

The Government is consulting on a draft Planning Policy Statement 4 (Planning for Sustainable Economic Development). When adopted the PPS will cancel PPG4 (Industrial, Commercial Development and Small Firms 1992), most of PPG8 (Telecommunications 2001) and the maximum parking standards set out in PPG13 (Transport 2001).

The overarching aim of the draft PPS is to ensure appropriate weight is given to the economic benefits of development, such as employment and regeneration. The draft PPS builds on the planning objectives set out in PPS1 and supports economic development which is sensitive to the challenges of climate change. Specific policy aspirations include:

- Making the most efficient and effective use of land and buildings, especially vacant or derelict buildings (including historic buildings)
- Identifying a good range of sites for mixed use and economic development
- Local Planning Authorities should avoid designating sites for single or restricted use classes wherever possible and avoid carrying forward existing allocations where this cannot be justified
- Employment land reviews should, wherever possible, be carried out at the same time as housing land reviews to ensure a full assessment of competing land uses
- An up-to-date assessment of the demand for employment land should be maintained.

Planning policies should facilitate a supply of land to cater for business needs but be flexible enough to respond to changing economic circumstances. Regional and Local Planning Authorities are required to use a wide evidence base to understand both existing business needs and likely changes in the market. The draft PPS4 is on consultation until 17 March 2008.

UK GROCERY MARKET - PROVISIONAL COMPETITION COMMISSION FINDINGS

On 31 October 2007, the Competition Commission published provisional findings into their investigations of the UK Grocery Market. This was a wide ranging investigation which considered supply chain and buyer power issues as well as land use and planning issues.

The Commissions provisional findings seek comments upon a series of remedies to *inter alia* address planning barriers and land banking/control which affect local concentrations of grocery stores and would, if overcome, open up local markets. Suggested remedies the Competition Commission are minded to introduce through changes to the planning system include:

- Greater availability of land for development outside town centres;
- Distinguishing between edge of centre sites and out of centre sites - on the basis that sites located in edge of centre locations can benefit the town centre;
- Amendments to national retail planning policy (PPS6) recognising the perceived shortcomings of quantitative and qualitative need and whether one or more of the current tests should be removed;
- Inclusion of a 'competition test' in some shape or form;
- The possible granting of fascia - specific (retailer) consents.

Suggested measures to prevent the control of land for use by competing grocery stores include:

- Prohibiting grocery retailers from imposing restrictive covenants on land;



- Prohibiting the enforcement of restrictive covenants by grocery retailers;
- Compulsory notifications to the OFT (or similar policing body) of all restrictive covenants/exclusivity agreements which benefit grocery retailers;
- Sublease notifications to OFT (or similar policing body).

Parties to the Inquiry and other interested persons had until 30 November 2007 to respond to the provisional findings report. The Competition Commission will then consider these comments and may change or consider other possible remedies if appropriate.

The Competition Commission is required to publish its final report by 8 May 2008.

GOVERNMENT COMMITS TO COMMUNITY INFRASTRUCTURE LEVY



With the much maligned Planning Gain Supplement having been dropped in the pre-budget report, the Government has now committed itself to a new charge on development, the Community Infrastructure Levy (CIL). The idea is that economic growth and in particular, housing, requires increased investment and infrastructure to mitigate the impact of developments. This would be at least partly funded by owners of land, the value of which increases when planning permission is granted for development.

Infrastructure requirements relating to residential and commercial developments identified in the Development Plan for the area are to be costed and standard charges would be set which may vary from area to area to reflect local circumstances. Developers would also be liable for site specific planning agreements for items such as affordable housing.

CIL will principally affect land owners as developers may seek to pass on the cost. Whilst major schemes will be most affected, minor schemes will also be caught because of lower thresholds; smaller schemes have generally not had to bear any costs to date. The bill introducing CIL will not come into force until early 2009 although in the interim, local authorities will be able to impose standard local charges (as some already do).

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