

RECENT PUBLICATIONS - RESIDENTIAL

A number of documents have been published recently with relevance to the housebuilding industry.

Firm Foundations : The Future of Housing in Scotland was published in October 2007. This discussion paper establishes a range of proposals that are aimed towards strengthening strategic planning for housing and to improve the link between planning and housing related strategies. Among the proposals are:

- An aim to increase per annum housebuilding from 25,000 to 35,000 by 2015
- The National Planning Framework will set the national spatial perspective for housing in the future
- New guidance for local authorities on the assessment of housing markets and housing need to inform both Local Housing Strategies and Development Plans
- The introduction of a presumption that will allow planning permission to be granted in advance of land being designated in a Development Plan in the areas where there is evidence of a shortfall in housing
- Expanded or new stand-alone settlements through a Scottish Sustainable Communities Initiative

These all seem to be worthy aspirations. However, rather than relying on planning authorities to assist in facilitating the 40% uplift in unit numbers by 2015 it is likely that the industry will need to take the lead. It has to be hoped that planning authorities will embrace this aspiration sooner rather than later, both through local plans and applications, in order for there to be any chance of meeting the target.

Indeed, why wait until 2015. It is anticipated that the Government's formal

position on the matters highlighted in Firm Foundations will be issued by the end of June. **'All Pain No Gain? Finding The Balance - Delivering Affordable Housing Through the Planning System in Scotland'**, which has been prepared by Newhaven Research on behalf of the Chartered Institute of Housing, considers the related areas of housing policy and developer contributions. The research is aimed at drawing out lessons for central and local Government in relation to the factors that have contributed towards or hindered delivery of Affordable Housing Policies (AHP) across Scotland.

Much of its analysis and commentary of experience to date will ring true with many developer interests, and hopefully also with practitioners in local Government.

Several criticisms are made of the current approach, both in terms of the practical difficulties, time delays and uncertainty that are encountered through the planning process, but also, and more significantly, at the overall principle of Government policy seeking to rely on the private housebuilding industry to deliver affordable housing. Coverage is given in the research to:

- The ethics and legality of the Government policy approach to this issue
- What is meant by mixed communities and do they always deliver benefits?
- Does the policy framework, perhaps perversely, create an incentive for planning authorities to favour new development where development value is at its greatest so that greater gains are accrued?

Continued on page 2

JUNE 2008

Inside this issue:

RECENT PUBLICATIONS - RESIDENTIAL	1-2
NATIONAL PLANNING FRAMEWORK 2 - THE DISCUSSION DRAFT	2-3
SCOTTISH PLANNING POLICY 6 - RENEWABLE ENERGY	4
SPP11	5

GLASGOW MOVES & PLANNING EXPANDS

We are delighted to announce the appointment of Chris Gardner as Senior Planner to our successful planning section at our newly relocated Glasgow offices now at 16 Gordon Street, Glasgow, G1 3PT.

Chris joins us from GVA Grimley and brings with him specialist knowledge and experience in retail, commercial, industrial and mixed use development. At GVA Grimley, Chris worked on projects for clients including Asda, the Buchanan Partnership and Chancerygate. Chris joins our team, headed by David Campbell, Planning Director.

The appointment is part of the continued expansion and growth of our Planning & Development services across the UK. The Scottish planning team has expanded in recent years and acts for several clients who are active in the residential, retail and regeneration sectors.

Alistair Ferrier, Head of the Glasgow office comments: "At GL Hearn, people are one of our most important assets and we are always looking to maintain and expand our reputation through our staff. Chris will be a welcomed addition to our already successful planning department and our ever growing Glasgow office."

Continued from page 1

- Who actually bears the cost of planning agreements requiring affordable housing?
- Knowledge/skills gap exists to successfully deliver on policy requirements for affordable housing delivery in a properly reasoned and timeous manner
- Difficulties relative to the nature and timing of affordable housing delivery with particular reference to lack of co-ordination between the development of housing and planning policies, the timescale variations between these elements of policy, difficulty in agreeing valuation of affordable housing land and uncertainty for development funding

Ultimately, the research concludes that it is likely that the Government's approach of attempting to secure affordable housing through the private housebuilding industry will remain in place, and based on this assumption prevailing a series of recommended actions are put forward. These include:

- More and detailed guidance from Government on the technical and complex dimensions of the affordable housing policy process, including advice relative to housing needs assessment and the relationship to affordable housing policies

- Increased joint working and collaboration both within local authorities and with RSLs and developers
- Consistency relative to valuation approaches
- Training for housing and planning professionals to better understand each discipline and the need for synergy between them relative to affordable housing

Whilst most parties would support the majority of these recommendations, Newhaven Research put forward a more radical agenda. They do not seek to specifically favour one approach over the other but essentially table alternatives in order to stimulate debate with the view to potentially finding a better way of trying to deliver affordable housing than we enjoy under the present approach. Among the suggestions made are:

- A roof tax/tariff to fund infrastructure investment, established by the local authority based on development established in the development plan, with development types then charged on a pro rata basis. This would potentially avoid the need for Section 75 agreements
- Abolish the plan led system, introduce a presumption of a right to develop and then incentivise local authorities to promote residential and other forms of development through the reform of local Government finance

Although the Government's previous aspiration to introduce a Planning Gain Supplement (PGS) has now been dropped there remains the spectre of some kind of tariff or levy on development and this is being advanced in England through the Community Infrastructure Levy, which has similarities with a flat rate developer's contribution that is applied in Milton Keynes. It remains to be seen if and how this issue is progressed relative to Scotland.

The aforementioned approaches are likely to meet with some resistance. Indeed, the authors themselves expect fine tuning of the existing system rather than root and branch change. However, the paper makes stimulating reading and should hopefully focus the Government's consideration of how better to deal with affordable housing delivery which in turn should at the very least create more consistency, transparency and certainty.

If you wish to discuss the above or any other matter pertaining to residential development, including affordable housing, then please contact David Campbell at 0141 226 8200 or david_campbell@glhearn.com



NATIONAL PLANNING FRAMEWORK 2 - THE DISCUSSION DRAFT

A draft replacement to the 2004 National Planning Framework (NPF), was issued for consultation in January 2008 and is currently undergoing a round of consultation, including a series of conferences around the country.

A lengthy and wide ranging document, the NPF will have more weight than its predecessor, having been given a statutory status as part of the changes to the planning system being introduced by the Planning etc (Scotland) Act. It also sets out examples of what are expected to be 'national' developments, the top tier of development in the new planning system, proposals for which have been controversial, due largely to removal from local decision making consideration of whether the principle of such developments are acceptable.

While the discussion draft states that the formulation of these national developments will flow from the consultation being undertaken, a sample of national developments included in the discussion document are:

- Transport proposals such as the replacement Forth Crossing and works at Glasgow and Edinburgh Airports
- Energy proposals relating to grid reinforcement



- Infrastructure works including the Glasgow Strategic Drainage Scheme
- Facility and infrastructure requirements of the 2014 Commonwealth Games.

The document seeks to pull together different threads of the new Government's priorities in relation to economic, sustainability, energy and housing objectives, and is an important indicator of the Government's policy direction and likely public spending patterns.

The document sets out the current position, 'Scotland Today' in relation to a number of themes, including place, people, the economy and transport. The document is fairly statistic heavy, including the possibly little known fact that 70% of the country's population lives within 10km of the sea. It then continues with 'Drivers of Change', the key challenges over the next 25 years, again this is considered in relation to themes similar to those outlined in the context of the existing position.

The draft NPF suggests the following strategic objectives for the country:

- Wealthier and fairer
- Greener
- Safer and Stronger
- Smarter
- Healthier

These objectives are related to targets eg, in relation to the wealthier and fairer objective, seeking to increase the GDP growth rate to that of the UK by 2011, and reference is made to the creation of a knowledge-driven economy. As regards the 'greener' aim, the draft NPF refers to emissions reductions, through energy conservation and efficiency, and the integration of economic activity with the promotion of environmental quality.

The draft NPF translates these aims into more detailed spatial strategy, covering matters such as: the city regions; sustainable growth; housing; sustainable communities; the built, natural and marine/coast environment and infrastructure matters such as water, energy and transportation.

Given its spatial approach, these themes are then related to priorities and projects in different parts of the country, including city collaboration between Glasgow and Edinburgh, the Clyde waterfront and gateway proposals as well as transport connections.

While there is much in the document on the current position and where the Government want to see the country by 2030, the discussion draft does not contain detailed proposals in relation to the means by which these will be achieved. The NPF discussion draft does, however, state that the final version will set out an action programme for the implementation of the strategy.

In this regard, the draft NPF states that the key elements to be addressed in the action programme include the following: the suite of national developments; sub-sea super grid; Clyde Gateway and Commonwealth Games Facilities; Water and drainage infrastructure; the delivery of new sustainable communities and the National waste plan.

It is expected that the finalised version will be issued later this year. Given the enhanced status of the NPF, the document in its finalised form will be important not only as part of the new planning framework, but also as an indicator of general Government policy.

SCOTTISH PLANNING POLICY 6 - RENEWABLE ENERGY

The Scottish Government released Scottish Planning Policy 6 on Renewable Energy (SPP6) in March 2007. This new SPP sets out national planning policies for renewable energy developments. It also identifies the issues that Scottish Ministers will take into account when considering renewable energy policies and development plans, and when considering applications for planning permission which come before them on appeal or call in.

SPP6 specifically aims to provide greater certainty for Local Authorities and developers through guidance on:

- renewable energy developments and how they could be handled by planning authorities and
- low and zero carbon developments, the opportunities to deliver these and the targets to be met.

The guidance on renewable energy developments, (in conjunction with PAN45: Renewable Energy Technologies (revised 2002), is specific to Windfarms, Biomass, Hydro-electric schemes and

energy from waste. However, the low and zero carbon targets will apply to all types of development, from residential and commercial through to industrial and retail development.

While sustainability in new buildings is already required to a certain extent by current building regulations, and is further developed by amendments to the standards, for example, on access, energy, drying, washing, heating and ventilation, which came into force in 2007. These changes to the energy standards, now mean building regulation standards work towards a 20% reduction of carbon dioxide (CO2) emissions.

The planning system is identified by SPP6 as a key mechanism to support the move towards new low and zero carbon developments through the use of energy efficient, micro-generating and decentralised renewable energy systems so that carbon reductions are considered and secured at the design stage of projects.

Whilst the planning system already supports the delivery of sustainable development through location, siting and design considerations, SPP6 means that development plans must also include policies on the provision of low carbon and renewable sources of energy which complement the increasingly high levels of energy efficiency required by the building regulations.

The expectation is that all planning applications proposing development with a total cumulative floorspace of 500 sq.m. or more should incorporate on-site zero and low carbon equipment contributing at least an extra 15% reduction in CO2 emissions beyond the 2007 building regulations carbon dioxide emission standard.

The development plan process will be used to consider whether local circumstances justify going beyond 15%; lower the 500 sq.m. threshold; and whether higher standards can be secured for particular developments, including potential for decentralised energy supply

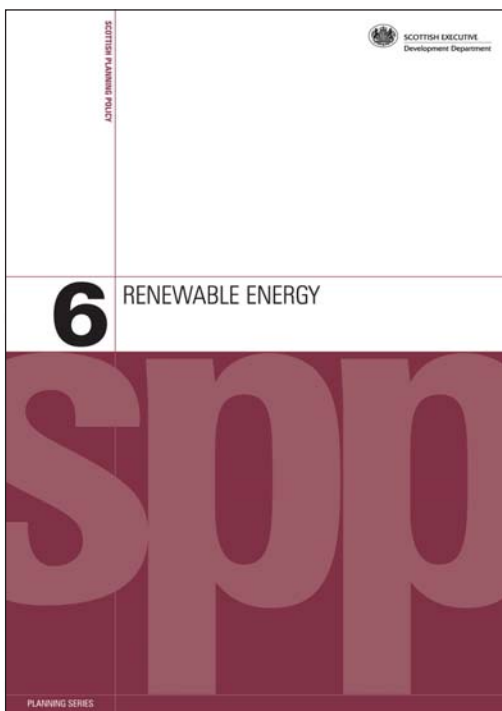
systems based on renewable and low carbon energy.

Applications will only be exempt from targets where developers are able to demonstrate that technical constraints exist. In such circumstances, development plan policy will ensure that developers meeting targets are not disadvantaged by securing from the applicant, by agreement, the equivalent carbon savings elsewhere in the area.

The Government is also positively considering extending permitted development rights so that micro generation equipment can be installed on existing buildings without the need to obtain planning permission. Indeed, a consultation paper was launched in March on planning reforms aimed at increasing renewable energy generation and cutting emissions. Most householders currently wishing to install solar panels, heat pumps or wind turbines on existing buildings must apply to the local planning authority for consent. However, under the proposals, permission may be granted automatically under Permitted Development rights, provided that strict criteria are met. The consultation process runs for 10 weeks.

Through various planning applications GL Hearn has gained experience in dealing with planning authorities on the matters raised above. The City of Edinburgh Council have published a separate SPG on Sustainable Building Standards, which requires developers to achieve a carbon emissions reduction of 10% (20% for large scale developments) over and above the 2007 Building Standard Regulations through on-site renewable technologies. In West Lothian the Council have adopted a policy on Renewables, which reflects SPP6's 15% benchmark.

For further details on how these policies are being interpreted and for information on which planning authorities have adopted the recommendations of SPP6, please contact Chris Gardner on 0141 226 8223.



SPP11 'OPEN SPACE AND PHYSICAL ACTIVITY'

The new SPP11, with accompanying circular (7/2007) on amended notification procedures was issued in November 2007.

As would be expected, the revised national policy maintains support for the retention of open spaces, although it moves away from the detailed guidance contained within the previous NPPG in relation to different sporting activities.

A key theme running through the policy is the need for a strategic approach to be taken to the protection of existing open space as well as the formation of new facilities, with open space and recreational strategies to be informed by open space audits and open space strategies. While the previous policy required study and analysis of existing open spaces, the new policy gives increased emphasis to this approach,

with the result of open space audits and strategies to inform development plan strategy both in relation to proposals for existing open space, as well as open space requirements for new developments.

This latter proposal is welcomed as previously development plans have set open space requirements, arguably in some cases without justification for levels proposed. The requirement for local plan open space strategies to be clearly backed up by survey and analysis should lead to greater clarity at development plan and application stage. It does mean, however, that it will be important to monitor the progress of open space audits and strategies, their conclusions and how these will be translated into the development plan.

In line with the Scottish Government's policy of a more inclusive planning system, consultation and involvement with community and other relevant groups is

encouraged at all stages in the process, from open space audits and strategies, through to development plan and planning applications.

While the policy maintains the general presumption against the development of playing fields and sports pitches, the criteria where redevelopment of playing fields may be considered acceptable has changed, now including the possibility for replacement playing field provision as part of development proposals. However, the policy also contains the vague provision that, even where the key criteria for redevelopment are met, consideration then has to be given to whether the site has other value, (eg recreational or landscape), which means it should be retained as open space.

Also included within the policy is the increased involvement of SportsScotland, who now must be consulted in relation to proposals which result or could result in the loss of certain recreational facilities. An objection from SportsScotland will require referral to Scottish Ministers.



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