

CITY OF LONDON LAW SOCIETY

PLANNING AND ENVIRONMENTAL LAW COMMITTEE

Minutes of meeting held at 26 January 2017, at the offices of Addleshaw Goddard

1 ATTENDANCES AND DETAILS OF SUBSTITUTIONS

Members

Stephen Webb	Clyde & Co LLP (Chairman)
Robert Share	Allen & Overy LLP
Marnix Elsenaar	Addleshaw Goddard LLP
Lucy Thomas	Ashurst LLP
Sara Hanrahan	Blake Morgan LLP
Nigel Howorth	Clifford Chance LLP
Ashley Damiral	CMS Cameron McKenna LLP
Helen Hutton	Charles Russell Speechlys LLP (Hon Sec)
Christopher Stanwell	DAC Beachcroft LLP
John Bowman	Fieldfisher
Matthew White	Herbert Smith Freehills LLP
Claire Dutch	Hogan Lovells International LLP
Louise Samuel	Linklaters LLP
Richard Keczkcs	Slaughter and May
Romola Parish	Travers Smith LLP
Rupert Jones	Weil Gotshal & Manges

Substitutes and other Attendees

Michael Green	Latham & Watkins LLP
Victoria Watson	Norton Rose Fulbright LLP
Halah Al-Zamel	Trowers & Hamblins LLP

2 **APOLOGIES FOR ABSENCE**

Kevin Hart	City of London Law Society
Joshua Risso-Gill	Nabarro LLP
Paul Davies	Latham & Watkins LLP
Valerie Fogleman	Stevens & Bolton LLP
Brian Greenwood	Clyde & Co LLP
Ian Ginbey	Clyde & Co LLP
Duncan Field	Norton Rose Fulbright LLP
Jacqueline Backhaus	Trowers and Hamlins LLP
Ben Stansfield	Stephenson Harwood LLP
Claire Fallows	Charles Russell Speechlys LLP

3 **MINUTES APPROVED**

The Minutes of the previous meeting on 13 October 2016 were approved.

4 **MORTGAGE IN POSSESSION**

Robert Share has been working with Alex from Herbert Smith, contacting London Councils about the issue of boroughs trying to change from the standard s 106 position that mortgagees are not bound until they take possession.

5 **PLANNING ISSUES**

- (a) The meeting received a summary of the planning minister, Gavin Barwell's, talk on what the Housing White Paper would contain.

These issues are likely to be at the forefront of the Government's planning agenda in the next few years:-

- Increasing the release of land for housing
- Encouraging Local Authorities to update their plans
- Increased use of Brownfield land and improving densities in appropriate locations
- Increasing housing build starts
- Increase Local Authority resources
- Pre-commencement conditions

- Improving performance of utility companies
- Nature Conservation Laws, which are currently causing a serious block to development
- LPEG response – Councils responsible for driving Housing starts in their areas
- Housing Implementation strategy – statistics need to be in reports. 5 year land supply to be increased by additional buffer of 20% for non delivery
- Reducing reliance on house-builders to build homes - ie Councils, PRS and Housing Associations all are to build more schemes
- Use it or lose it – penalties on developers if they do not crack on with development
- Starter Homes will be considered as Affordable Housing in White Paper but the 20% figure is to be confirmed

CIL Response paper - delays to its publication are apparently being caused by viability assessment issues in the White Paper. Publication is however expected immediately.

DCLG possibly to do formal document responding to the CIL review, at same time as the White Paper.

Stephen Webb spoke to Tom Dobson on panel. He thought most of the CIL panel's recommendations would be accepted by the Government.

(b) Neighbourhood Planning Bill is progressing

(c)+(d) Proposed EIA Regulations amendments

Richard K ran through the points made by the Law Society committee

3 points re transposition

(i) Brussels is keen about the requirement for Local Authorities to take account of preliminary assessments

Keen that this comes through in draft Regulations

(ii) Directive says Local Authorities should screen as soon as possible – timings not in Regulations

Time limit of 3 months proposed - 3 months will be the default position, if we are not careful

(iii) Competent persons – the Government assumes all bodies have in-house FIA expert/appointee externally. No obligation in draft Regulations for Councils to

ensure such an expert/appointee is in place - ie incumbent on developers not Local Authorities.

The committee decided not to comment on the proposed changes.

- (e) Homes for Londoners – Mayor’s Draft Housing SPD consultation until end of February

Considers inter alia:

- Disposal of public sector land etc
- Best endeavours meaning etc
- Viability comments (we should leave such comments to experts in this field)
- JR/letter before claim being submitted along lines of written ministerial documents – if could overreach itself. Undermining Local Authorities’ Affordable Housing requirements

Does this create new policy, not just hang off London Plan?

Legal status – we need to point out some of the issues

SW, RK and ME to consider document and respond if appropriate

- (f) Historic England Report – The Committee discussed the recent report on tall buildings in London and also asked David Tomback about it after his talk, at the end of the meeting.

6 ENVIRONMENTAL SUB-GROUP

Environmental lawyers met to discuss Brexit – a number are joining the Irish bar.

An Environmental Permitting meeting had taken place for the Environmental sub-Group. Norton Rose Fulbright hosted the meeting, alongside Ramboll Environ and Stephen Hockman QC and Christopher Badger, both of 6 Pump Court

Next meeting will be on Climate Change Litigation. NGOs are now reporting on Climate Change risk. Latham & Watkins is hosting the meeting.

Environmental list now contains approximately 40 people

7 ANY OTHER BUSINESS

- (a) Eversheds letter before action for the JR against Gavin Barwell’s ministerial statement on 12 December 2016. The statement set out that when neighbourhood plans make provision for housing, the plans should not be deemed out of date (unless there is a significant lack of land for housing in the wider local authority area).

Planning Resource said Claim went in to High Court today.

- (b) New NPPF is expected to be published in June.
- (c) Draft London Plan – due out in the autumn.
- (d) Richard K attended a meeting with Jules Pipe. His idea is that London Plan should trump National policy.

Richard K – CLLS Certificate of Title 2016 (7th) Edition – warning that the Certificate is now talking about what is a lawful use, not a permitted use in para 12 of Schedule 3

- (e) Potential speakers for future CLLS PELC meetings
 - Steve Quartermain and his deputy
 - Ian Dove

8 **DATE OF NEXT MEETING**

23 March at Stephenson Harwood.

Dates of meetings for the rest of year to be circulated by the Chairman.

9 **DAVID TOMBACK'S TALK**

David Tomback of Historic England then spoke to the Committee about Enabling Development.

In terms of Listed Building policy, David mentioned that Historic England's 2008 Guidance is still extant, although it does not comply with the NPPG.

Historic England's Good Practice consultation draft document is due out soon. Will then be issued in final form ASAP thereafter.

Hopefully it will sit under Good Practice Advice Note no.4. NPPF para 140 is the hook for this document.

Helen Hutton

Hon Secretary