

CITY OF LONDON LAW SOCIETY

PLANNING AND ENVIRONMENTAL LAW COMMITTEE

MEETING HELD AT THE OFFICES OF OSBORNE CLARKE, ONE LONDON WALL,
LONDON, EC2Y 5EB ON FRIDAY, 17 JUNE 2011

Minutes

1. Attendances, Apologies for Absence and Notice of Substitutes

Members

Stephen Webb	SNR Denton LLP
Paul Davies	Macfarlanes LLP
Chris Williams	CMS Cameron McKenna LLP
Helen Hutton	Charles Russell LLP
Robin Holmes	Farrer & Co LLP
Romola Parish	Travers Smith LLP
Noel Doran	Taylor Wessing LLP
Michael Gallimore	Hogan Lovells International LLP
Sebastian Charles	K&L Gates LLP
Tony Curnow	Ashurt LLP
Valerie Fogleman (Vice Chair)	Stevens & Bolton LLP
Rupert Jones (Chair)	Weil, Gotshal & Manges
Matthew White	Herbert Smith LLP
Brian Greenwood (Hon. Secretary)	Osborne Clarke

Substitution

Michael Gill	Linklaters LLP
Anjana Ghosh	Winckworth Sherwood LLP
Anita Kasseean	Stephenson Harwood LLP
Jo Fernandes	S J Berwin LLP
Simon Catterall	Berwin Leighton Paisner LLP
Katrina Moore	Clifford Chance LLP

In Attendance

David Hunter	Osborne Clarke
Gabriel Robertson	Osborne Clarke

Apologies for Absence

Richard Keczkas	Olswang LLP
Duncan Field	SJ Berwin
Barry Jeeps	Stephenson Harwood
Tim Pugh	Berwin Leighton Paisner LLP
Nigel Howorth	Clifford Chance LLP
Sarah Hanrahan	Winckworth Sherwood LLP
David Watkins	Linklaters LLP

2. Minutes of Last Meeting and Matters Arising

The Minutes of the last meeting were approved as circulated and there were no matters arising that were not already included on the Agenda for this meeting.

3. Chairman's Report

The Chairman reported on the following:

- (i) He drew attention to the recent appointment of Richard Keczkas as Chairman of the Law Society's Planning and Environmental Law Committee. Richard will be succeeding David Brock of Mills & Reeve, David formerly being a member of this Committee when Head of Planning at Herbert Smith. Richard takes up his post in September of this year.
- (ii) Localism Bill – the Chairman reported on progress. The Law Society was continuing to lobby on various fronts in the House of Lords (particularly in relation to clause 104) but at present Government was assuming what was becoming an almost standard position, namely whilst listening to comments made from interested parties it was not in fact accepting any amendments.
- (iii) The Chairman reported that he had attended an RTPI reception at Portcullis House.
- (iv) The Chairman had also attended the retirement reception for David McIntosh, who had stepped down as the first Chairman of the City of London Law Society following the formal separation in September 2007 of the CLLS from the City of London Solicitors' Company. In this context, the Chairman also reported that the new Chief Executive of the City of London Law Society was David Hobart, former Chief Executive of the Bar Council. In addition, the new Chairman of the City of London Law Society is Alasdair Douglas, formerly senior partner of Travis Smith.

4. Membership of the Committee

The Chairman reported two new potential members for the Committee, asking for views, namely Joshua Risso-Gill of Nabarro and Ian Ginbey of Clyde & Co, formerly of Macfarlanes LLP.

5. Consultation Papers

- (i) *Change of Use from commercial to residential* - it was pointed out that Peter Rees on behalf of the City of London Corporation had argued that the proposals in relation to change of use from commercial to residential should not apply to the City of London. The position at Westminster was noted vis-a-vis policies in their own local plan. It was agreed that there may be special reasons for applying different regimes but the general view was that local planning authorities should retain powers and have sound policy grounds for any approval of such changes of use.
- (ii) *Greenhouse Gases* – should companies be reporting greenhouse gas emissions and should the obligation to report be limited to specific types of companies?
- (iii) *Red Tape Challenge* – the Vice Chairman drew attention to the Cabinet Office web page, pointing out that the government proposed to "cut out" legislation/ statutory instruments that did not appear to achieve anything and as a consequence some 278 instruments were to be repealed. The Vice Chairman had prepared what the Chairman considered to be a "hard line response".

- (iv) *Waste Review* – it was noted that this dealt with waste collection and it was not considered that the consultation document should be reviewed by the Committee.
- (v) *Community Infrastructure Levy* – attention was drawn to the draft Charging Schedule produced by the Mayor of London for the proposals for the City Corporation. These were noted but it was agreed that no formal response would be submitted.
- (vi) *CLLS Certificate of Title* – the Land Law Committees had sought our comments on the draft of the new seventh edition of this certificate. A response is required by our Committee, although planning has not changed overmuch. An issue was raised as to whether in fact the Certificate fully covered issues such as flooding.
- (vii) *Contaminated Land Warning Card* – this Law Society warning card is currently being reviewed and it was agreed that progress would be reported back to the next meeting of the Committee.

6. Documents for Noting

Attention was drawn to the following:

- (i) Speech by Greg Clark "A new settlement for planning" – 14 June (RTPI Convention)
- (ii) Updated plain English Guide to the Localism Bill.
- (iii) DCLG – Guidance to Local Authorities on responding to the new rights of communities to buy community assets.
- (iv) PPS3 – Planning and Housing.
- (v) DEFRA – Natural Environment White Paper.
- (vi) Right of communities to protect green spaces.

7. Major development sites and Section 106 obligations

Michael Gallimore reported on the progress that has been made (or rather not made) with the Department in relation to problems arising in relation to Section 106 Agreements when developers are unable to secure the execution of all landowners. Attention was drawn to an article written by Michael which appeared in Planning Magazine on 23 May 2011. It was noted that the difficulties alluded to in the submission paper of June 2009 have still not been resolved. Michael reported that, having drawn the matter to the attention of the Department, they had responded in the following terms:

"Work on the NPPF is well under way. I am not sure at this stage what the timescales are for revising other policy-type documents, such as circulars or whether there is scope at the moment to consider individual components of those documents rather than undertaking a more comprehensive review. Resources across the Department are quite stretched at the moment and the Localism Bill and the NPPF are key focuses.

I will, though, discuss this issue with colleagues when I get an opportunity, and get back to you.

In the meantime, Circular 11/95 and the policy tests therein remain in place.

I will be interested to hear whether there have been further cases, since our meeting, where this issue has arisen, particularly in relation to any relevant refusals/appeal decisions. If I remember correctly, the issue of the current policy being very strictly interpreted by decision makers had been tested on appeal, but haven't been tested in the Courts. Does that remain the case?"

8. Social Event

The Hon. Secretary was again tasked with arranging a social event. After discussion as to the venue, a query was raised as to whether it would be more cost effective and indeed more convivial for members of the Committee and their teams if the social event this year was held in the offices of one of the members. The Hon. Secretary agreed to investigate.

9. AOB

Attention was drawn to the fact that the Oxford Planning Conference was this year being held on 16-18 September.

10. Date of Next Meeting – Friday 9 September at the offices of Hogan Lovells LLP.

BJ Greenwood

Hon. Secretary