

**CITY OF LONDON LAW SOCIETY PLANNING AND
ENVIRONMENTAL LAW COMMITTEE**

Minutes of meeting held over Zoom on 29 September 2020

1 ATTENDANCES AND DETAILS OF SUBSTITUTIONS

Members

Stephen Webb	Clyde & Co LLP (Chairman)
Paul Davies	Latham Watkins (Vice Chairman)
Gary Sector	Addleshaw Goddard LLP
Claire Fallows	Charles Russell Speechlys LLP
Helen Hutton	Charles Russell Speechlys LLP (Hon Sec)
Kevin Hart	City of London Law Society
Nigel Howorth	Clifford Chance
Ashley Damiral	CMS Cameron McKenna Nabarro Olswang LLP
Ian Ginbey	Clyde & Co LLP
Brian Greenwood	Clyde & Co LLP
Christopher Stanwell	DAC Beachcroft LLP
Ben Stansfield	Gowling WLG LLP
Matthew White	Herbert Smith Freehills LLP
Sara Hanrahan	Lewis Silkin LLP
Richard Keczkcs	Slaughter and May
Valerie Fogleman	Stevens & Bolton LLP
Duncan Field	Town Legal LLP
Louise Samuel	Town Legal LLP
Rupert Jones	-

2 APOLOGIES FOR ABSENCE

Christian Drage	BCLP LLP
John Bowman	FieldFisher LLP
Rory Bennett	Linklaters LLP
Romola Parish	Travers Smith LLP
Jacqueline Backhaus	Trowers & Hamblins LLP

3 MINUTES OF THE LAST MEETING

The minutes of the last meeting on 13 February 2020 were approved.

4 PLANNING ISSUES

- 4.1 Sara H provided an update on the meeting with MHCLG on 18 June 2020. Members of this Committee had combined with the Law Society and PEBA Groups, to discuss various concerns with MHCLG. MHCLG is keen to engage with us. Various changes

have been brought in since the meeting, in line with the concerns raised at it. The important points covered were:

- Approach being applied to existing section 106/CIL contributions for schemes, where they are no longer viable on the basis of contributions envisaged some two years ago. The request was made for a wider form of s106 BA to be reintroduced (to cover the whole s 106 offering) and for the flexibility on CIL to extend beyond SMEs. MHCLG admitted that there was not a lot of scope to amend contributions under the current rules for either s 106 or CIL. It was however considering viability generally. MHCLG hoped that Councils were applying a flexible approach to viability (with a top-up to be applied later, if appropriate). For CIL, the Government would not extend the SME flexibility recently announced, to all companies. MHCLG also acknowledged that the new Infrastructure Levy proposal is now on the table.
- Expiry of Planning Permissions/Listed Building Consents since March – MHCLG was supportive at the meeting of an extension. The Regulations were then brought in, in July, to extend the life of those consents.
- Remote Committee Meetings – there were problems about the balance of interests. MHCLG had asked for examples of large schemes which had been stalled, as Councils were reluctant to hold committee meetings remotely.
- Appeals – there were problems with PINS being reluctant to take forward remote hearings in the early days of the Corona virus lockdowns. PINS is however engaged and the issue is moving forward now.
- MHCLG confirmed that the Government is keen to extend PD rights. More is to come on this in due course.
- Extensions of temporary uses – these have come into effect already.
- Concerns that pre-commencement conditions are still currently holding up development. Asked if more could be done by MHCLG.

Both sides are keen to meet up again. Too much going on to meet before White Paper consultation response has been submitted, but we should look to have another meeting once White Paper response is in.

4.2 Sara also mentioned the Small Working Group which is working on the consultation response to the Current Planning System consultation paper.

There are four proposed changes to the planning system:

- changes to the standard method for assessing housing numbers;
- securing of First Homes through developer contributions;
- temporarily lifting the small sites threshold and
- extending PIP to major development.

Much of the consultation relates to planning policy, on which our Committee does not comment. There are a lot of issues identified with the proposals. The working group has made comments where it thinks they are useful. It certainly supports added flexibility, but more accuracy is needed for the assessment of housing need.

The Committee mainly discussed the changes to the method for assessing housing need, including concerns for housing numbers in London and for the Green Belt. Dropping the cap would lead to some disproportionately high numbers for London. The country is a long way from meeting housing numbers now, as highlighted by Lichfield's charts. Numbers for housing in London there are huge.

The formula here is based on 2014 forecast for population growth which is blended with existing housing stock – ie it is not accurate. It does not take into account what is actually happening in that particular area now. The working group suggested that the Government should introduce temporary changes to the standard method and then monitor if they are working or not.

The Committee was opposed to PIP being used for major development. It discussed 10 housing units as a suitable threshold above which a PIP would not be appropriate.

Comments on drafting the response to the consultation were made in the meeting.

4.3 Planning White Paper

Duncan, Richard, Gary and Brian agreed to draft the response to this consultation on behalf of the Committee.

The Committee discussed the National Committee response to the Planning White Paper consultation and whether we might combine forces with that committee. We would not also join with PEBA, as its perspective is different.

Three relevant words to summarise the proposed changes are:

- Fundamental
- Underfunded and
- Tension.

The proposals are primarily addressing housing, while not really considering infrastructure etc.

4.4 Christopher and Matthew W volunteered to draft the JR consultation response.

4.5 Uses Classes changes. No one was anticipating such huge reforms as were suddenly brought in. Keen on flexible approach being taken. Planning is here being changed not only to help housing, but also high streets. The new PD Rights and the Use Classes Order changes are both subject to legal challenge. October challenge will get through to a hearing, as it is so important.

- 4.6 Next meeting with MHCLG – we will discuss the changes which have been brought in since our June meeting and provide feedback on them.

5 ENVIRONMENTAL ISSUES – PAUL DAVIES’ UPDATE

5.1 General Update

Waiting for January to arrive, when we will know a lot more about what will happen about the effect of Brexit on Environmental laws.

In July there was a Zoom session for Environmental sub-group. Presentation on pro-bono project on climate issues.

A sub-group was also formed which has been working with CLLS Company Law Committee responding to the FCA Consultation on Climate related Financial Disclosures. The proposals set out in the consultation concern requiring all commercial companies with a premium listing to either make climate related disclosures consistent with the approach set out by the Taskforce on Climate-related Financial Disclosures (TCFD) or explain why not. Submission of document is expected in early October 2020 (published in December). *[Note: The same subgroup has also responded to a more recent consultation by BEIS on Mandatory Climate related Financial Disclosures in line with TCFD for publicly quoted companies, large private companies and LLPs.]*

- 5.2 European Commission Green Deal outlines the European Commission’s ideas on how to achieve Net Zero by 2050. This is only 24 pages in length but a must read! It provides a roadmap with actions to boost the efficient use of resources by moving to a clean, circular economy and stop climate change, revert biodiversity loss and cut pollution. It outlines investments needed and financing tools available, and explains how to ensure a just and inclusive transition.

- 5.3 COP26 – delayed to November 2021. There need to be very significant developments between now and then, in order for this to achieve what it needs to achieve. As John Kerry describes COP “the last best chance” to resolve the climate crisis.

Convergence of Standards: There is currently an “alphabet soup” of different reporting standards. Expect to see momentum build for greater convergence by the end of the year. We are already seeing TCFD widely adopted as the reporting standard for climate change disclosure.

6 AOB

- 6.1 Vice Chairman – Paul Davies was appointed the Vice Chairman of the Committee

- 6.2 Kevin’s update

CLLS AGM was held a couple of weeks ago. It was mentioned that the Society was grateful for influential work of individual committees.

Ed and David would like to attend a future meeting. Agenda item: Chance to meet all and explain what CLLS is doing.

8 DATE OF NEXT MEETING

22 June 2021 at 4 pm

Helen Hutton
Hon Secretary