

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

**MINUTES FOR MEETING ON TUESDAY 30 APRIL AT 4.15 PM AT ASHURST LLP,
LONDON FRUIT & WOOL EXCHANGE, 1 DUVAL SQUARE, LONDON E1 6PW**

ATTENDANCES (SOME VIRTUALLY) AND DETAILS OF SUBSTITUTIONS

Matthew White (Chairman)	Herbert Smith Freehills LLP
Paul Davies (Vice Chairman)	Latham & Watkins LLP
Helen Hutton (Hon Secretary)	Michelmores LLP
Jacqueline Backhaus	Trowers & Hamlins LLP
Ashley Damiral	CMS Cameron McKenna Nabarro Olswang LLP
Claire Dutch	Ashurst LLP
Rachel Davidson (substitute for Claire Fallows)	Charles Russell Speechlys LLP
Duncan Field	Town Legal LLP
Fleur Francis	Corporation of the City of London
Ian Ginbey	Clyde & Co LLP
Brian Greenwood	Clyde & Co LLP
Sara Hanrahan	Lewis Silkin LLP
Rupert Jones	
Richard Keczkcs	Slaughter and May
Tim Pugh	
Josh Risso-Gill	CMS Cameron McKenna Nabarro Olswang LLP
Louise Samuel	Town Legal LLP
Gary Sector	Addleshaw Goddard LLP
Robert Share	Allen & Overy LLP
Christopher Stanwell	Fieldfisher LLP

APOLOGIES FOR ABSENCE

Claire Fallows	Charles Russell Speechlys LLP
Valerie Fogleman	Stevens & Bolton LLP
Ben Stansfield	Gowling WLG

MINUTES OF THE LAST MEETING

The Minutes of the last meeting were approved.

PLANNING UPDATES

1 GOVERNMENT UPDATES:

1.1 LURA 2023 –

1.2 The Committee discussed the implementation of various additional provisions under the Act since the last meeting, including

i) to the CPO rules - such as:

- a) the Acquiring Authority and landowner being able to vary the date for the Acquiring Authority taking possession of the land, so long as both parties agree and
 - b) the Confirming Authority being able to direct when confirming the CPO that certain compensation rules will not apply, so long as it is in the public interest – this means that hope value may no longer apply;
- ii) 4 year enforcement period rule no longer applying for any breaches committed as from 25 April 2024;
 - iii) the duration of Temporary Stop Notices is extended to 56 days; and
 - iv) new Enforcement Warning Notices may now be issued (where there is a reasonable prospect of an application being allowed).

1.3 **BNG – 12 February**

The Committee discussed the commencement of this new regime. Not much has changed yet, as applications submitted since 12 February have not yet had time to work through the system and so require a Gain Plan etc. But local authorities are generally not ready and/or have no staff who are able to deal with this concept yet. The Committee discussed habitat bank section 106s and the lawyers within local authorities not being in a position to accept drafts yet. The Committee also discussed the huge range of monitoring fees being requested by different local authorities and Responsible Bodies. There is no evidence that Responsible Bodies will actually agree the documentation promptly and provide a more efficient service than the local authorities, so justify the extortionate fees currently being requested for agreeing the conservation covenants (no one on the Committee has seen a draft of one yet), agreeing the HMMP and monitoring compliance with/delivering the same.

The Committee noted that early Guidance has been updated without announcements being made.

1.4 **PDR – Class MA of Part 3 – change of use to dwellings**

The Committee noted that floorspace requirements have been removed.

1.5 **NPPF consultation (brownfield development)**

The Consultation ran from 13 February to the end of 26 March. It sought views on how the NPPF might support the approach of making effective use of brownfield land for development and on reviewing the threshold for referral of application to the Mayor of London (with a view to reducing the number of applications going to the Mayor from 150 homes to 500).

1.6 **Announcement re new use class C5 and PDR**

This relates to short term lets. The new rules are likely to be brought in in the summer. A mandatory national register is to be introduced.

1.7 **CIL guidance update**

The aim of this is to prevent higher CIL rates for SME developments.

1.8 **Guidance for second staircases**

The Committee noted that amendments have been made to Approved Document B, so new residential buildings over 18 metres in height will now require a second staircase from 30 September 2026.

1.9 **EOR**

There still has been no response to the consultation. The new regime is expected to come into force in 2025.

2 **LONDON UPDATES**

2.1 **London Plan Review** – with a focus on housing delivery – the panel (appointed by DLUHC) recommended in January the introduction of a "strong presumption in favour of residential development on brownfield sites" (or a WMS and/or PPG to set out similar presumption). Only 4 London authorities are currently meeting housing targets. London Plan is seen as overly complex and is frustrating housing development.

2.2 As part of the wider review of the London Plan, a letter has also been sent to the Mayor asking for a review of industrial areas.

2.3 The Committee noted that the Large-Scale Purpose-Built Shared Living London Plan Guidance (published 29 February 2024) provides the appropriate assessment benchmarks for designing and rolling out appropriate accommodation, as co-living space is not caught by the existing housing design standards and policies.

3 **CASE UPDATES**

3.1 M&S Oxford Street High Court decision – 1st March 2024. The decision confirmed the misapplication of policy by the Secretary of State. It has gone back to the Secretary of State for redetermination.

3.2 R (Dennis) v LB Southwark Court of Appeal – 17th January 2024. This Hillside related case confirms that the phased outline permission should be seen and implemented as an integrated whole. The implementation of subsequent drop-in applications could render the whole permission un-implementable in its entirety. The case confirmed that it does not help if one just inserts the word "severable" into the phased permission retrospectively. It would have to be severable from the start. Separate permissions would therefore be required for each different part of the development. The view of the Committee is that this case was incorrectly decided, as it has set the bar too high. Most local authorities will be nervous about any drop-in applications now.

- 3.3 Fiske v Test Valley – Sara confirmed that permission has been given to appeal the 2023 Court of Appeal decision, with an October hearing date.

4 LOCAL AUTHORITY UPDATES:

- 4.1 Response to consultation on "City Plan 2040". Brian Greenwood offered to consider this consultation document and draft a response on behalf of the Committee.
- 4.2 WCC – partial review of City Plan published in March. Consultation is running until 9 May.
- 4.3 The Committee noted a current issue in Westminster relating to the Council not accepting section 19 P(LBCA) Act 1990 applications to change drawings for consents involving listed buildings. The section 73 applications are however still being accepted to amend the drawings for the related planning permission. The Council just will not accept these s 19 applications and it will not share its legal advice on this issue with applicants.
- 4.4 Greenwich and Newham Councils are going to be helped by the Government's newly established "super squad", to assist with the unblocking of significant developments in those Boroughs.

5 ENVIRONMENTAL UPDATES (PAUL)

There have been three separate consultation responses over recent months prepared by the Environmental sub-committee, working alongside the CLLS ESG Committee

- Serviced emissions – reviewing the Law Society response in the Race to Zero proposal – the CLLS response raised concerns about the proposals;
- Transition Finance Market Review and
- Climate Risk in Conveyancing

6 BNG EVENT – REPORT

PEBA and CLLS jointly hosted a webinar on 19 February relating to the legal issues associated with the mandatory BNG. Ben Stansfield and Josh Risso-Gill were involved in the organisation of the event. Section 106 and conservation covenant drafting was discussed, alongside the practical issues being encountered by those currently dealing in this area.

7 RESPONSE TO CONSULTATION ON "AN ACCELERATED PLANNING SYSTEM"

Matthew's team had drafted and circulated a suggested response to this consultation prior to the meeting. It was approved by the Committee. It was to be submitted on 1st May.

8 FUTURE SPEAKERS

Russell Harris KC has been advising the Labour party on planning matters. He might be an interesting speaker at a future meeting. Ian G would be happy to contact him if required.

9 **APPOINTMENT OF NEW HONORARY SECRETARY FOR THE COMMITTEE**

Jasmine Ratta of Trowers & Hamlins has agreed to be the new Honorary Secretary to the Committee, following Helen Hutton's desire to step down. Jasmine's appointment was confirmed by the Committee. The Committee thanked Helen for her 9 years in post.

10 **DATE / VENUE FOR NEXT MEETING**

Jacqueline Backhaus agreed to host the next meeting on 9 July at Trowers & Hamlins.

11 **AOB**

11.1 The Labour Party proposed policy was discussed, with the headline changes likely to involve:

- Matthew Pennycook MP has announced that there would be a bold update, not a wholesale dismantling of the existing planning system;
- The first change is expected to be the reinstatement of mandatory targets in the NPPF;
- Grey Belt to be created, alongside the Green belt, in order to release more land for development;
- Building new towns in order to improve housing delivery quickly (although the Committee cautioned that the likely timescales have been underestimated); and
- The recruitment of large numbers of planning officers.

11.2 Sara Hanrahan is moving back to Blake Morgan and Allen & Overy is merging with Shearman & Sterling, both prior to the next meeting, so the Committee was asked to note that Sara's and Rob's email addresses will be changing.

Helen Hutton

Hon Secretary CLLS PELC