

## City of London Law Society Planning and Environmental Law Committee

Meeting on 16 January 2024 at the offices of Herbert Smith Freehills, Exchange House,  
Primrose Street, London, EC2A 2EG

### MINUTES

#### 1 Attendees

##### In person

Matthew White(Chair)	Herbert Smith Freehills LLP
Rachel Davidson (substitute for Claire Fallows)	Charles Russell Speechlys LLP
Nina Pindham	Cornerstone Barristers
Christopher Stanwell	Fieldfisher LLP
Fleur Francis	Corporation of the City of London
Kevin Hart	City of London Law Society
Gary Sector (volunteered to take Minutes)	Addleshaw Goddard LLP
Jasmine Ratta (substitute for Jacqueline Backhaus)	Trowers & Hamblins LLP
Stephen Webb	Brecher LLP
Claire Dutch	Ashurst LLP
Louise Samuel	Town Legal LLP
Ashley Damiral (ONLINE)	CMS Cameron McKenna Nabarro Olswang LLP
Pastera Little-Morgan (ONLINE)	Latham & Watkins LLP
Joanna Carless (ONLINE)	TfL
Josh Risso-Gill (ONLINE)	CMS Cameron McKenna Nabarro Olswang LLP

#### 2 Apologies for Absence

Paul Davies (Vice Chair)	Lathan & Watkins LLP
Helen Hutton (Secretary)	Michelmores LLP
Christian Drage	BCLP LLP
Duncan Field	Town Legal LLP
Sara Hanrahan	Lewis Silkin LLP
Rory Bennett	Linklaters LLP
John Bowman	Fieldfisher LLP
Matthew Evans	Forsters LLP
Claire Fallows (Rachel Davidson to attend)	Charles Russell Speechlys
Brian Greenwood	Clyde & Co.
Richard Keczkes	Slaughter and May
Ben Stansfield	Gowling WLG
Valerie Fogleman	Stevens & Bolton LLP
Tim Pugh	

#### 3 Minutes of Last Meeting

- 3.1 The Minutes of the last meeting held at Lewis Silkin on 24 October 2023 were approved.

#### 4 Chair's Introductory Comments

- 4.1 It was noted that the Committee Secretary, Helen Hutton was not in attendance as she was unwell. Attendees wished Helen a speedy recovery. The Chair noted that Helen had decided

to step down as Committee Secretary, a role which she had undertaken for several years. Anyone who wished to volunteer for the role of Secretary should let the Chair know.

4.2 The Chair then noted some changes to the make-up of the invitees to this and future meetings so that they better reflected the London issues. Specifically:

- (a) Joanna Carless was in attendance (in an observatory role) from TfL;
- (b) Fleur Francis was in attendance from the Corporation of London. The Chair noted that David Raggett used to be on the Committee, and that had been generally considered by membership to be a good thing. It was noted that it would be really helpful to have a public sector member of the Committee again;
- (c) Nina Pindham of Counsel was in attendance, representing PEBA.

4.3 It was noted that several members of the committee had never been to a committee meeting, and it was emphasised that any ongoing non-attendance would lead to invitations to attend being withdrawn so that membership could be extended to others who wished to play an active role in meeting discussions and taking forward committee business.

## 5 Planning Updates

### 5.1 Government Update

- (a) **LURA 2023.** It was noted that the Act received Royal Assent in October 2023. Whilst provisions were slowly coming into force, most planning provisions had not yet commenced. This would require Commencement Orders and/or Regulations.
- (b) **Written Statement.** Michael Gove made a Ministerial Statement<sup>1</sup> at the end of December. Key points were the repeal of the duty to cooperate and headlining a new package of planning enforcement measures.
- (c) **BNG.** It was noted that the date on which BNG would come into effect had been pushed back again to the end January and may go later into February.
- (d) **NPPF.** The 19th December revision (plus a minor amendment the following day) were noted, with the principal updates being related to housing delivery and mansard roofs. It was noted that a more substantive update to the NPPF was trailed in the Written Ministerial Statement and Michael Gove's speech to RIBA, and could be expected in coming months.
- (e) **Extension of time agreements.** It was noted that a consultation on the continued use of extension of time agreements had been trailed.<sup>2</sup>
- (f) **London Plan Review Report.** This was being led by Christopher Katkowski KC, with the aim of speeding up the delivery of housing in London. It was noted that the powers

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<sup>1</sup> See DLUHC Speech [here](#)

<sup>2</sup> Update: note this comprises, inter alia, the subject of a consultation launched on 6 March 2024 which closes on 1 May 2024: see [here](#)

of the Mayor to direct decision making were not used very often and it would be interesting to see what the report states.<sup>3</sup>

- (g) **Cambridge.** There was expected to be a new development corporation for Cambridge, with details expected to be announced shortly.<sup>4</sup>
- (h) **Building Regulations.** It was noted that a review of the Building Regulations to bring in tighter water efficiency measures was expected in the Spring.

## 5.2 Case Update

- (a) **Finch** – it was noted that the Supreme Court decision was still awaited. Another round of questions were issued to the parties on Aarhus in early Autumn in this case, which concerns a planning decision maker's legal duty to consider the indirect environmental impacts caused by downstream GHG emissions.
- (b) **Fiske** – Sarah not in attendance. CA held<sup>5</sup> that when an LPA grants planning permission which is incompatible with an earlier planning permission, the LPA is not bound in law to take it into account as a material consideration the inconsistency of a permission if granted with earlier decisions in deciding whether to grant planning permission. If an inconsistent permission is granted it is then for the developer to determine whether to then implement noting the potential implications in validity of earlier consents.
- (c) **Challenge to Carbon Budget Delivery Plan** – it was noted that the substantive hearing in the High Court was due to be towards the end February 2024.<sup>6</sup>
- (d) **Bibby Stockholm** – did it need planning permission? Rolled up hearing on 27-29 February. A jurisdictional point re: material change of use.
- (e) **Pickering Fishing Association** – DEFRA's approach to river basin management plan was unlawful.<sup>7</sup>
- (f) **M&S Oxford Street** – the decision of the High Court was awaited.<sup>8</sup>

## 5.3 Local Authority Update

- (a) The GLA Consultation on the draft Industrial Land and Uses London Plan guidance was noted. The Consultation was to close on 28 February 2024.<sup>9</sup>

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<sup>3</sup> Update: note the Review Report dated 15 January 2024 was published on 13 February 2024 and can be found [here](#).

<sup>4</sup> Note The Case for Cambridge (March 2024) can be found [here](#).

<sup>5</sup> [2023] EQCA Civ 1495 beofre Lindblom LJ, Coulson LJ and Sir Launcelot Henderson. See judgement [here](#)

<sup>6</sup> Postscript: hearing was before Sheldon J on 20-22 February 2024 with judgement reserved.

<sup>7</sup> [2023]WWHC 2918 (Admin): see judgement of Lieven J [here](#)

<sup>8</sup> Decision handed down on 1 March 2024 by Lieven J: see judgement [here](#)

<sup>9</sup> See [consultation here](#)

#### 5.4 Environmental Sub-Committee Update

5.5 The update from the Environmental Sub-Committee was presented by Pastera Little-Morgan. The update had for the most part been covered by the legal update already provided, but in addition it was noted:

- (a) **Fry**, which addressed the issue as to how water neutrality should be addressed by decision makers, was now due to be heard in the Court of Appeal rather than the Supreme Court;
- (b) **Lee Rowley had written to Council leaders on nutrient neutrality** to state that legislation would now be brought forward in this Parliament;<sup>10</sup> and
- (c) **ESG** – the Environmental Law Sub-Committee continued to liaise with the ESG Committee.

#### 6 **Future Meetings/Events**

6.1 It was noted that a joint seminar on BNG was to be taken forward with PEBA, to include as a guest speaker one of the policy team at DEFRA. A Working Committee had been formed comprising Nina Pindham, Ben Stansfield and Josh Risso-Gill.

#### 7 **AOB**

7.1 **RTPI.** The Chair had met with Victoria Hills of the RTPI, and there was an agreement to liaise more closely on future activities.

7.2 It was noted that members were entitled to apply to become legal associates of the RTPI. The application involved a 4,000-word submission on a planning law topic. It was noted that currently there were only three legal associates on the Committee, notwithstanding the opportunity the role provided to get involved with the activity of the RTPI.

#### 7.3 **Future Speakers.**

- (a) Attempts to secure Matthew Pennycook MP to speak on planning had to date proved unsuccessful.
- (b) [Shravan Joshi, the Corporation of the City of London's Chair of Planning Committee](#) has agreed to come and speak at the next Committee Meeting, and take a 20 minute Q&A. This session would take place on Tuesday 30 April 2024 at 5pm.

7.4 **AI Committee.** The CLLS had set up an AI Committee, which was to include one member from the Planning Committee. Josh Risso-Gill had kindly volunteered to sit on this Committee.

7.5 **LinkedIn.** A LinkedIn page was being set up for the Committee. A volunteer was requested to deal with the tech-boffins to set up the webpage.

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<sup>10</sup> A copy of the letter can be found [here](#)

## **8 Social**

- 8.1 **April Event.** It was noted that an event would take place after the 30th April Committee Meeting, with member firms being asked to contribute to the bar tab. Claire Dutch agreed to host the meeting at Ashurst.

**Gary Sector**