

Number 5

The Planning and Compulsory Purchase Bill

In February we issued a Bulletin which set out the Government's Green Paper Proposals. The proposals attracted over 16,000 responses opposing several of the reforms and attracted severe criticism from a Select Committee. Several of the earlier proposed changes have been dropped and many of the proposed changes will be introduced under existing secondary legislation, but others have necessitated new legislation in the Planning and Compulsory Purchase Bill. This will itself depend extensively on secondary legislation. It has just completed its Committee stage and it is thought that most of its provisions will not be introduced until the spring of 2004. The Bill is aimed at speeding up the planning process, and it depends on more centralisation to achieve much of this. The following are the main changes, and comment is given in italics.

- Regional Spacious Strategies (RSSs) are to replace Regional Planning Guidance (RPGs). In response to criticism that there was a need for adequate consultation in the process it was announced that this would occur through the Examination In Public (EiP) process. *It should be noted however that people have no right to attend EiPs and when they do it is by invitation only.*
- RSSs are to be more regionally specific unlike RPGs. *The trend to increase regional planning makes it more important for the property industry to be represented in this process.*
- RSSs to be prepared by Regional Planning Bodies (RPBs) whose proposals will be tested at EiP and the Counties will act as agents of the RPBs. The RSS will become part of the development plans and Structure Plans will be abolished. *There is a concern over the abolition of Structure Plans, which are assembled by democratically elected and accountable representatives, rather than appointees which the Bill creates, whilst at the same time there is a concern that this process, which preserves a consultative role for the counties as well as creating the RPBs would add another tier into the plan making process.*
- Sub-regional Strategies will be created. *Same comments as above.*
- Local Development Documents (LDDs) will replace local plans, unitary development plans and structure plans and these must contain the development policies. They will have to be compatible with RSSs. Planning authorities must maintain local development schemes, to be the subject of approval by the Secretary of State, which will effectively be the project management of the plan making process and specify the timescale, geographical area and content of the plans. These will contain LDDs and the Secretary of State has indicated, should be revised every 3 years. A Statement of Community Involvement will aim to involve the community in the production of LDDs. The Secretary of State can intervene in LDDs in order to modify them if they appear to be unsatisfactory. *Many believe that the timetable may prove to be unworkable.*

PROPERTY

RadcliffesLeBrasseur
5 Great College Street
Westminster
London SW1P 3SJ

Tel +44 (0)20 7222 7040
Fax+44 (0)20 7222 6208
LDE 113

6-7 Park Place
Leeds LS1 2RU

Tel +44 (0)113 234 1220
Fax+44 (0)113 234 1573
DX 14086 Leeds Park Square

25 Park Place
Cardiff CF10 3BA

Tel +44 (0)29 2034 3035
Fax+44 (0)29 2034 3045
DX 33063 Cardiff 1

info@rlb-law.com
www.rlb-law.com

RadcliffesLeBrasseur

BRIEFING

- Inspector's decisions on development plans to be binding. *This will without doubt speed up the process albeit that it will centralise power rather than devolve it, which was the intention by Section 54A of the Town and Country Planning Act 1990.*
- Wide powers are given for planning authorities to charge for incidental functions. It remains the government's intention that charges can be made for pre-application discussions, and this will be the subject of secondary legislation. The proposal for charging for discussions/services with statutory consultees has been dropped, although they will need to respond within 21 days. *The larger developers may not necessarily mind the charges if it would create greater certainty and speed, although it could impact very unfairly if applied on householder type applications.*
- Planning authorities can devise Local Development Orders, which obviate the need to apply for planning permission in certain cases.
- Business Planning Zones (BPZs) envisage planning permission for certain developments not being necessary in certain zones subject to Environmental Impact Assessments (EIAs) before such designation. *This is welcomed.*
- Outline consents will be replaced with a statement of Development Principles which states that development can occur within agreed parameters, subject to the submission of a detailed scheme. *Concern had been expressed over the degree of detail that would be necessary to advance in seeking such a certificate as well as raising doubts as to whether an EIA would be necessary.*
- LPAs to give reasons for grant of permission as well as refusal; this will be introduced under secondary legislation. *This is generally welcomed*
- LPAs can decide not to determine repeat or similar applications which had not previously been appealed. *There could be instances where a previous applicant has now appealed but where the new applicant for good reason takes a different view. Similarly there could be instances where positive recommendations have been made by officers but followed by refusals. In such cases many suggest that it is unfair for LPAs to be vested with this discretion.*
- The Government is reducing the life of planning permissions for five years to three years except where LPAs otherwise stipulate. *This has been criticised as an unrealistic proposal, particularly given that the economic cycle is usually of the order of 5 years.*
- The period in which an appeal is to be submitted will by amendment to existing secondary legislation, be reduced from six to three months. *This is unrealistic, give the planning and commercial evaluations that need to occur and any contract or commitment to be entered into. Moreover, it could increase the number of appeals since many will feel that they should automatically protect their rights, rather than give them more realistic and mature reflection.*

©RadcliffesLeBrasseur

February 2003

Readers are advised to take specific advice before acting in reliance on the matters set out in this briefing.

For further information on property related issues please contact :

London	Charles Farrer on 020 7227 7270 email: charles.farrer@rlb-law.com Michael Higginson on 020 7227 7312 email: michael.higginson@rlb-law.com
Leeds	Michael Thorniley-Walker on 0113 234 1220 email: michael.thorniley-walker@rlb-law.com Colin Dixon on 0113 234 1220 email: colin.dixon@rlb-law.com

PROPERTY

RadcliffesLeBrasseur
5 Great College Street
Westminster
London SW1P 3SJ

Tel +44 (0)20 7222 7040
Fax+44 (0)20 7222 6208
LDE 113

6-7 Park Place
Leeds LS1 2RU

Tel +44 (0)113 234 1220
Fax+44 (0)113 234 1573
DX 14086 Leeds Park Square

25 Park Place
Cardiff CF10 3BA

Tel +44 (0)29 2034 3035
Fax+44 (0)29 2034 3045
DX 33063 Cardiff 1

info@rlb-law.com
www.rlb-law.com