

## PLANNING AND HIGHWAYS DEPARTMENT

### Overhaul of the Planning Regime – The Planning Act 2008

The planning regime has recently undergone major changes in an attempt to make it faster and fairer. Twelve months after being introduced in the House of Commons, the Planning Bill received Royal Assent on 26 November this year and is now the Planning Act 2008.

#### Major Infrastructure Projects

A major part of the Planning Act 2008 is concerned with the establishment of a unified development consent regime to speed up the planning process for nationally significant infrastructure projects. The term ‘Development’ remains as defined in the Town and Country Planning Act 1990. Nationally Significant Infrastructure Projects, and development that forms part of such projects, now require ‘Development Consent’ instead of ‘Planning Permission’. Unlike previously, when in addition to planning permission under the Town and Country Planning Act 1990, consents under other regimes were also required before the development could commence, the new Development Consent encompasses such other matters as well. The new streamlined procedure is intended to provide a speedier process.

Nationally significant infrastructure projects are described in the Act (e.g. airports, railways, highways, dams, hazardous waste facilities, installation of gas pipes and electricity lines etc). Decisions in respect of such projects will be made by the Infrastructure

Planning Commission either sitting as a panel or as a single commissioner. The Commission will be guided in its decision-making process by National Policy Statements issued by the Secretary of State. The Conduct of the Commissioners will be regulated by a Code of Conduct.

The Act makes it an offence to carry out development comprising a nationally significant infrastructure project without Development Consent. A person found guilty of such an offence could be fined up to £50,000. However, a person cannot be charged with an offence under this Act after the expiry of 4 years from when the development was substantially completed or as specified in the Act.

Time limits have been imposed on the decision-maker to speed up the procedure and to make the system fairer to all. The pre-application procedure includes the duty to consult the local community, publish the proposed application and take into account representations made in response to such consultation and publication.

#### Changes to the Existing Planning Regime

The Act also introduces changes to the existing planning regime relating to general development matters.

For example, it emphasises the need to consider good design as an element of sustainable development. Local

planning authorities are empowered to make non-material changes to planning permissions which include imposing new conditions or removing or altering existing conditions.

The Act also introduces the much debated Community Infrastructure Levy. This is a mechanism available to local planning authorities to secure financial contributions towards the provision or enhancement of the infrastructure necessary to support sustainable development. In areas where the Community Infrastructure Levy is adopted by a local planning authority, planning obligations will have a more limited role. The details relating to the new Community Infrastructure Levy will be covered in regulations to be issued by the Secretary of State.

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*For further advice and information, please contact **Mrinalini Rajaratnam** in our Planning Department or via email on [mr@dolegal.co.uk](mailto:mr@dolegal.co.uk)*

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