

Review

Planning Insight



Regional Spatial Strategies

Since our last review in April, the coalition Government has already started the process of overhauling the regional planning regime. Communities and Local Government Secretary Eric Pickles has written to every local planning authority to emphasise the coalition Government's intent to abolish Regional Spatial Strategies (RSS) and implement a structure based on localism. In the letter Pickles states that "decisions on housing supply (including the provision of traveller's sites) will rest with local planning authorities without the framework of regional numbers and plans."

Pickles stated that a formal announcement will be made soon, but that in the meantime "I expect Local Planning Authorities and the Planning Inspectorate to have regard to this letter as a material consideration in any decisions they are currently taking."

The Secretary of State commented: "I have written to all councils to let them know that they can make planning decisions in the knowledge that 'regional strategies' will soon be history. It will no longer be possible to concrete over large swathes of the country without any regard to what local people want."

While it is clear that the Government does not wish for authorities to be bound by Regional Spatial Strategies, they still form part of development plans and therefore have to be considered in planning decisions. Until the abolition receives formal Government approval, authorities may find themselves treading an uncertain path between the present law and Eric Pickles' guidance.

Coalition Government reissues PPS3

Decentralization Minister Greg Clark announced that the coalition Government is reissuing PPS3 to remove density targets and declassify gardens as brownfield land. These changes are a further reflection of the coalition Government's policy of localism with regard to planning issues. The declassification of gardens as brownfield land is in response to the perceived problem of "garden grabbing."

Industry reaction to the changes has been mixed. The Royal Town Planning Institute's Head of Policy Matt Thomson offered reserved praise for the changes, stating "We believe these measures will encourage councils to use their powers to protect the character of residential neighbourhoods but the impact on councils' ability to protect open space, Green Belt and countryside will need to be monitored."

The Home Builders Federation meanwhile, described the move as "unnecessary and counterproductive," further stating: "Councils already have the powers to accept or reject any application. These unnecessary proposals risk causing further confusion."

Supermarkets have a role to play in regeneration, says Demos

Independent think tank Demos has stated that supermarket chains have a large role to play in the regeneration of the poorest communities. Drawing on studies of the Castle Vale and Balsall Heath Communities, the report considers that "Attracting mainstream, everyday brands succeeds in helping to boost resident confidence, increasing employment opportunities and combating the stigma of living in a 'brand desert'." The report's author, Max Wind-Cowie, elaborated upon this, saying that supermarkets "have a role to play in helping deprived communities to regenerate by reducing stigma, boosting community morale and bringing low-cost quality produce into the area."

The report recommends that supermarkets should be offered incentives to open branches in poor communities. An example given is the idea of time limited tax breaks; the supermarket would be exempted from a proportion of their business rates for a period of time. Another suggestion is to

allow the supermarkets to commission specific training from the local authority and employment support services to take advantage of the local potential workforce.

Labour MP Roger Godsiff, whose constituency includes the community of Balsall Heath, responded negatively to the report. He stated "I'm astonished by this idea that Tesco or Asda should be the battering ram to regenerate local communities when there are a plethora of food suppliers in the area, including farmers' markets and a strong eco-movement. There are also a large number of ethnic minorities in Balsall Heath who prefer to buy their food from local shops run by different cultural groups." He further pointed out that residents in nearby Moseley are campaigning against a new Sainsbury's for fear of the effect it would have on local independent retailers.

Tegni Cymru CYF v Welsh Ministers – High Court 20 May 2010

This case was an application to quash the decision of a Planning Inspector. The Planning Inspector had refused planning permission for the construction of 13 wind turbine generators in a forest in Denbighshire. One of the reasons for refusal was the cumulative effect of the noise from the turbines together with the noise from other turbines on nearby land. The Inspector concluded that this noise would have an unacceptable impact on the local population.

The point of dispute was whether the Inspector's approach to the issue had been reasonable. It was argued by the Claimant that the approach had been flawed, mainly because the Inspector had not provided sufficient reasoning to support his decision.

The Court agreed with the Claimant that the Inspector's decision was one which no reasonable Inspector could have reached. The lack of adequate reasoning led to the Court granting the order to quash the Inspector's decision

Tile Wise Limited v Somerset District Council – High Court 17 June 2010-06-22

This case concerned the use of vehicles for advertising. The Appellant appealed against its conviction for displaying advertisements on vehicles without the consent of the Local Authority or the Secretary of State contrary to the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. The Appellant used the vehicles for deliveries and moving staff, and when the vehicles were not in use parked them at the side of a main road displaying an advertising board. The Appellant contested that the use was within the exemption in class B of Schedule 1 of the regulations, "An advertisement displayed on or in a vehicle normally employed as a moving vehicle...not used principally for the display of advertisements."

The Court held that the principle use of the vehicle had to be determined at the time of display. Therefore if there was any point at which the vehicle was used primarily for the display of advertisements, planning consent was required. Accordingly the Appeal was dismissed.

R (on the application of Vivien Morge) v Hampshire County Council – Court of Appeal 10 June 2010

The Appellant (a local resident) appealed against the refusal of a previous application for Judicial Review of a decision to grant planning permission for a bus route. The construction of the bus route would involve cutting down an area of overgrown land. The local resident sought an order quashing the decision on the basis that it caused 'deliberate disturbance' of a protected species in contravention of the European Directive on the Protection of Natural Habitats.

The Court held that the construction of the bus route would not constitute a 'deliberate disturbance.' For such a disturbance to exist, the court stated that "the disturbance must have a detrimental impact so as to affect the conservation status of the species at population level." Hence neither the deliberate destruction of vegetation nor the risk of bats being killed by buses could be classed as a 'disturbance' and the appeal was dismissed.

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