

Review

Planning



REGIONAL SHAMBLES

It was announced yesterday that Cala Homes has succeeded in its application for Judicial Review of the Coalition Government's decision to abolish Regional Strategies.

Cala's interest stemmed from a proposal to build 2,000 homes on an 84 hectare site in Winchester. Their Judicial Review of the Secretary of State's decision in 2007 to refuse planning permission was unsuccessful. A revised proposal was again refused permission by the Local Planning Authority in June and Cala appealed that decision. The revocation of Regional Strategies in July 2010 meant that, according to Cala, no appeal could proceed as there was no regional planning policy against which to judge the proposal. The judicial review against the Government's decision was heard at the High Court on 22 October 2010. The effect of the Court's judgment is to quash the decision of the Secretary of State to revoke Regional Strategies.

The Secretary of State for Communities and Local Government issued the following Ministerial Statement following the Court's judgment yesterday:-

"On 6 July 2010, the Coalition Government revoked all regional strategies under section 79(6) of the Local Democracy, Economic Development and Construction Act 2009. This action was challenged in the High Court by developer Cala Homes, and the decision today concluded that Section 79 powers could not be used to revoke all Regional Strategies in their entirety.

Whilst respecting the court's decision this ruling changes very little. Later this month, the Coalition Government will be introducing the Localism Bill to Parliament, which will sweep away the last Government's controversial regional strategies. It is clear that top-down targets do not build homes - they have just led to the lowest peacetime house building rates since 1924, and have fuelled resentment in the planning process that has slowed everything down.

On 27 May 2010, the Government wrote to local planning authorities and to the Planning Inspectorate informing them of the Coalition Government's intention to rapidly abolish regional strategies and setting out its expectation that the letter should be taken into account as a material planning consideration in any decisions they were currently taking. That advice still stands.

Today, the Government's Chief Planner has written to all local planning authorities and the Planning Inspectorate confirming that they should have regard to this material consideration in any decisions they are currently taking.

Moreover, to illustrate the clear policy direction of the Coalition Government, the proposed clause of the Localism Bill that will enact our commitment to abolish regional strategies is being placed in the Library. The Bill is expected to begin its passage through Parliament before Christmas.

We are determined to return decision-making powers in housing and planning to local authorities and the communities they serve, alongside powerful incentives so that people see the benefits of building. We will very shortly provide more details about one of the most important such incentives - the New Homes Bonus Scheme, which will come into effect from April. This means that new homes delivered now will be rewarded under the scheme.

The Coalition Government remains firmly resolved to scrap the last Government's imposition of confusing and bureaucratic red tape. This was a clear commitment made in the Coalition Agreement and in the general election manifestoes of both Coalition parties. We intend to deliver on it."

"there remains much confusion as to how regional policy should now be applied".

In summary, although the Court has determined that the Government did not lawfully revoke Regional Strategies, the Government is continuing to defend the decision to revoke them. They are citing the lowest level of house building since the 1920s as being a direct result of their introduction, although many would argue that other factors have been significantly more influential in suppressing residential development.

The Decentralisation and Localism Bill is due to be published by the end of this month. This Bill will include provisions to abolish Regional Strategies and, according to the Secretary of State's statement, the relevant clauses of the Bill have been placed in the Library of the House of Commons. However, the Bill is unlikely to be enacted before summer 2011. The Secretary of State has advised all decision makers that his earlier letter indicating that Regional Strategies are to be abolished is still to be taken as a material consideration in determining planning applications.

The Court's judgment has provided some clarity in terms of the Secretary of State's powers to revoke the regional tier of planning policy. However, there remains much confusion as to how regional policy should now be applied. It will be a matter for local planning authorities and Inspectors at planning appeals to determine how much weight should be given to policies in regional strategies before the new legislation is enacted. However, regard must be had to the policies in determining planning applications.

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