

Planning Agents Forum – 16 October 2020 – Q&A session

Development Management:

Q: What is the position if the deadline for determining Prior Notifications, specifically Class Qs, is exceeded?

A: There has been a High Court case on whether Extensions of Time (EoT) can be used for Prior Notifications and the latest position is, yes they can. There is some advice on this on the agents area on our website but essentially it should only be in exceptional cases.

Q: If we don't grant an EoT, what is the Council's position? Can the building just be put up?

A: It's not quite that simple as it would need to meet the necessary criteria. The route would be through a Certificate of Lawfulness.

Q: The Class Q examples in the appeals presentation looked at character and impact. How do you feel regarding scope for negotiation on this and in terms of highly sustainable/low impact (OBD side) schemes? Could this be a material consideration that would find favour?

A: There's no generic advice. Each is considered on a case-by-case basis, depends on how sensitive the site is. Officers are always prepared to discuss it with you. If you look at the first example used, any replacement as a fallback position should have a rural feel to it, rather than urban.

Q: Why aren't the officers' emails regarding the Local Council protocol published online?

A: These are part of the decision-making process between Group Leaders, local councils and Divisional Members. If officers change a recommendation, then this needs to be communicated but it is not for publication.

Q: If we're relying on Zoom or Teams for meetings, could we have a middle tier for pre-app advice as it's not quite standard meetings or desktop pre-app advice?

A: Yes, we will consider that in our next round of reviewing the fees and charges.

Building Control:

Q: Will there be any amendments to Part H to deal with Non-Mains drainage e.g. Package treatment plants, which are very common in the rural areas of Cornwall?

A: Not that we are aware of, although MHCLG are very aware that Approved Document H is now rather out of date! Because the Part B, M and L matters take political precedence, MHCLG are focusing on those at present, but in due course, I imagine that Part H may be 'on the list' eventually!

Planning White Paper:

C: A comment on the White Paper and Design Codes: I hope that planning will allow some freedom for designers. We have some great examples of buildings built by 'maverick' architects, such as the Tintagel or Headland Hotels by Trevail, built in exposed locations as landmarks, other examples are the follies at Mount Edgcumbe etc...None of these abide by Design Codes. Also, the great variety of vernacular buildings responding to the context of geology etc in different parts of the County. The buildings also need to comply with Building Regs, Health and Safety, Biodiversity etc so the devil is in the detail and the design needs to be considered as a whole.

C: It does show the Government's desire regarding design but yes, we have concern re design 'codes' or patterns. Need local context, not centrally imposed.

Q: If an application is not determined within time, will planning permission be granted by default?

A: There is a suggestion in the paper that the Govt want to explore whether some types of development could have a deemed permission if a decision has not been taken in a timely manner - with the suggestion that this may apply to infrastructure. This is mentioned in the same paragraph as the suggestion that if applications are not decided on time fees could be returned - page 37 of "Planning for the Future".

Biodiversity Net Gain:

Q: Is the system for potentially buying offsite Bio-diversity units in place or if not is there a likely timescale?

A: The system for Cornwall is in place and we can already take contributions. The offsetting method that the Council will use is still being developed, so contributions will be held awaiting the identification of suitable habitat creation/restoration/improvement opportunities. Applicants can alternatively identify opportunities themselves and enter into a private agreement for offsetting - this will need to be fully evidenced in applications. We hope to publish further guidance on these aspects very quickly.

Climate Emergency:

Q: What mechanisms to measure carbon will be included?

A: We are working with different bodies to understand more about this. There will be further public consultation in November regarding the methods to be used.

CIL:

Q: Are template conditions still be formulated for the purposes of CIL phasing?

A: There are already standard phasing conditions being used but we would urge you to speak to your case officer.