

## Historic Towns Forum – Development, Growth and the Historic Environment

The Government Perspective- what you need to know

**Fiona Barker**



## What we'll cover

- **Listed Buildings and Conservation Areas**- Changes introduced by the Enterprise and Regulatory Reform Act 2013
- **Green Belt**- Current policy
- **Recovery of Appeals**- New policy change
- **Permitted development rights**- Proposals for greater flexibility regarding changes of use
- **Assets of Community Value**- The effect of listing

Historic Towns Forum



## Listed Buildings and Conservation Areas (1)

- Heritage Partnership Agreements (New s26A and B 1990 Act)\*
- Listed Building Consent Orders/Local Listed Building Consent Orders (New S26C-G 1990 Act)\*
- Certificates of Lawfulness (New S26H-K 1990 Act)\*
- Abolition of Conservation Area Consent (New s196D & s74 P(LBCA) Act amended; s171B TCPA amended)

\*Changes only partially in force

Historic Towns Forum



## Listed Buildings and Conservation Areas (2)

- "Heritage Partnership Agreement"-New type of agreement between LPA and the owner of a listed building(s)/part of a listed building(s) situated in England
- New concept of granting consent by agreement
- Wide range of additional matters can be covered

Historic Towns Forum



## Listed Buildings and Conservation Areas (3)

- Certificates of Lawfulness
- The lawfulness of works for which a Certificate is in force will be conclusively presumed, provided that the works are carried out within 10 years beginning with the date of issue of the Certificate (and the Certificate is not revoked)

Historic Towns Forum



## Listed Buildings and Conservation Areas (4)

- The SoS/LPAs may make orders granting LBC for specified works referred to as "Listed Building Consent Orders" and "Local Listed Building Consent Orders"
- Provisions are broadly based on TCPA provisions re Development Orders/Local Development Orders
- *Cannot* grant LBC for demolition and may specify conditions that will apply to any LBC granted by them
- *May* contain provision allowing the SoS/LPA to direct that the Order does not apply to a specified building, or buildings of a specified type/in a specified area.

Historic Towns Forum



### Listed Buildings and Conservation Areas (5)



- System of CAC regarding buildings situated in England removed as of 1 October 2013
- Planning Permission is now required under TCPA 1990
- Demolition of certain unlisted buildings\* in Conservation Areas in England ("relevant demolition") is not permitted development for the purposes of the GPDO
- Failure to obtain Planning Permission for a "relevant demolition" is an offence
- Secretary of State (SoS) to determine applications by interested Local Planning Authorities (LPAs)

Historic Towns Forum



### Green Belt (1)

*"The Government attaches great importance to Green Belts. The fundamental aim of Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence."* (NPPF, para. 79)

*"As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances."* (NPPF, para. 87)

Historic Towns Forum



### Green Belt (2)

- Example exceptions to the presumption against development in the Green Belt:-
  - Buildings for agriculture and forestry;
  - Replacement buildings (provided they have the same use as the original and are not materially larger);
  - Limited infilling in villages and limited affordable housing for local community needs under policies set out in the Local Plan.

Historic Towns Forum



### Green Belt (3)

*"...Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations."* (NPPF, para. 88)



Historic Towns Forum



### Policy

#### Recovery of Appeals



*"I want to give particular scrutiny to planning appeals involving renewable energy developments so that I can consider the extent to which the new practice guidance is meeting the Government's intentions. To this end, I am hereby revising the appeals recovery criteria and will consider for recovery appeals for renewable energy developments. This new criterion is added to the recovery policy issued on 30 June 2008 and will be applied for a period of six months from today after which it will be reviewed."*

*For the avoidance of doubt, this does not mean that all renewable energy appeals will be recovered, but that Planning Ministers are likely to recover a number of appeals in order to assess the application of the planning practice guidance at national level."*

(Eric Pickles, October 2013)

Historic Towns Forum



### Permitted Development (1)

Current Use	Change to (including physical works)
Shops (A1), Financial and Professional Services (A2)	Dwelling House (C3)
Buildings used for agricultural purposes (>150 square metres)	Residential (C3)
Buildings used for agricultural purposes (>500 square metres)	New state funded School or a Nursery providing childcare (D1)
Offices (B1), Hotels (C1), Residential & Secure Residential Institutions (C2 & C2A), Leisure and Assembly (D2)	Nurseries providing childcare (D1)
Retail (A1)	Banks and Building Societies (A2)



Historic Towns Forum



### Permitted Development (2)

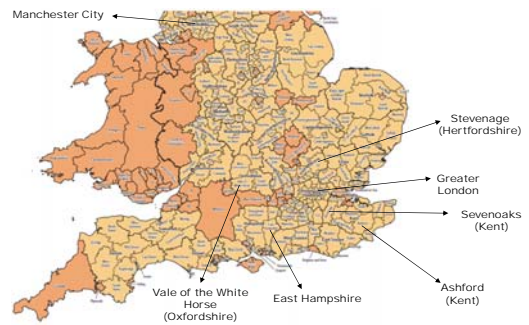


*"exemptions will only be granted in exceptional circumstances, where local authorities demonstrate clearly that the introduction of these new permitted development rights in a particular area will lead to:*  
*A. the loss of a nationally significant area of economic activity or*  
*B. substantial adverse economic consequences at the local authority level which are not offset by the positive benefits the new rights would bring."*  
 (Steve Quartermain, Chief Planner, February 2013)

Historic Towns Forum



### Permitted Development (3)



Historic Towns Forum



### Permitted Development (4)



Historic Towns Forum



### Assets of Community Value (1)

- Building or land, the actual current use (not an ancillary use) of which furthers the social wellbeing or social interests of the local community **OR** such a use in recent past
- Realistic to think that this use can continue or happen again in the next 5 years



Historic Towns Forum



### Assets of Community Value (2)

- Listing
- Moratorium on Relevant Disposals
- Fairer chance for Community Interest Groups to bid to buy the asset on the open market



Historic Towns Forum



### Assets of Community Value (3)

- Nomination by:
  - Community interest group
  - Parish Council
  - Neighbourhood Forum
- Notice – to landowner, leaseholder, occupier and parish council for the area in which the land lies
- Add to List of assets or to List of unsuccessful nominations



Historic Towns Forum



### Assets of Community Value (4)

- First Review
  - internally by an officer of appropriate seniority
  - within 8 weeks unless a longer time is agreed
- If still aggrieved may apply to the General Regulatory Chamber of the First Tier Tribunal.
  
- Throughout the review period the asset remains listed

Historic Towns Forum



### Assets of Community Value (5)

- Freehold disposal with vacant possession
- Assignment of lease (25 years) with vacant possession
- Grant of lease for 25 years plus with vacant possession
- Includes contract for disposal



Historic Towns Forum



### Conclusions

- Emphasis on procedural efficiency and streamlining
- Mixed messages regarding de-regulation
- Balance between protecting assets and enabling development and growth

Historic Towns Forum



This presentation gives general information only and is not intended to be an exhaustive statement of the law. Although we have taken care over the information, you should not rely on it as legal advice. We do not accept any liability to anyone who does rely on its content.