

# BRANCHOUT

No. 145

Autumn 2010

<http://southwest.rtpi.org.uk>

## Welcome from the Chair



**Is it just me or is the ongoing speculation about how the localism agenda will unfold getting a little tiresome, not to mention prolonged? Don't get me wrong, the strategic void created by the abolition of Regional Planning is cause for consternation, but the bigger threat is ongoing uncertainty. This can create a myriad of distractions that all too easily**

**divert our attention away from our core role of delivering sustainable communities. Clearly we don't act in isolation, but seek to achieve this aim through working with local communities and stakeholders to coordinate investment, activity and new development. With the development industry struggling out of recession and many familiar public organisations being abolished, re-organised or being affected by prospective budget cuts this is no easy task. You can of course read dozens of analytical columns about this elsewhere so I shall try and say no more here!**

So delivery remains challenging and the impending impacts of climate change have not gone away – so is there any hint of a silver lining? Well, I for one believe that there is and I think that you will understand why as you read through this article! I'm privileged to be part of this year's RTPI SW awards judging panel and have been greatly buoyed by the quality of the entries and the passion bestowed therein. I am looking forward to visiting some of the entries during September and October.

Looking back over the summer it's been a really busy and exciting time for RTPI SW. In July, we hosted a visit by the RTPI President, Ann Skippers, and also held our 2010 Annual Dinner ... .. but more about that inside. We held a very timely and successful conference on Regional Planning LDF's and LDF's!! We have also played about a little with the format of the Regional Activities Committee meeting to make it more inclusive and accessible. The meeting concluded with three workshop sessions looking at our offer to Young Planners, Environmental Education Programme and Surviving the Age of Austerity. The latter looked at how we might support both the profession and individual members during this period of financial austerity, in the same way that we have previously facilitated 'Beating the recession' workshops.

This generated some fresh thinking and a very different slant on change management. I would welcome any ideas or views that you might have.

And what have I been doing in August I hear you ask? ... .. Well I've been catching up on the day job, but also enjoying a bit of the summer. I harbour a keen interest in the concept of energy farms, capable of not only meeting society's food needs, but also some of our energy needs too. I was fortunate enough to indulge this interest, by joining a study tour looking at a solar PV park in Germany in August. The future looks bright ... .. well diffuse in many parts of the UK anyway! This visit was timely as there are a whole host of innovative renewable technologies presently coming forward within our region and we probably won't need to travel abroad to see reference facilities for much longer. The planning profession has the opportunity to help capture some of the social, economic and environmental benefits arising from the deployment of biomass, geothermal, solar PV, wind, wave and tidal energy infrastructure. RTPI SW's September 'Rural Planning' conference looked at some of the opportunities to regenerate our rural areas. Our forthcoming October 'Climate Change: Delivering essential infrastructure' conference at the Eden Project will also present an opportunity to showcase some of the innovative technologies coming forward right here on our doorstep. We have an excellent line up of speakers and bookings are high, but there are a few remaining places so I do hope that you will consider joining us for what will be a very thought provoking day.

The silver lining I mentioned above is very much a reflection of the innovation and enthusiasm that I see in planners within this Region, adapting to difficult circumstances and fundamentally getting on with it. We are also blessed in this region with some exciting opportunities and I know that many of you are looking to capitalise of this natural comparative advantage.

RTPI SW's focus remains on offering you exceptional value and tangible to benefits to membership. I would once again stress the commitment and hard work that the members of the Regional Activities Committee put in on your behalf. Although we do also try and have some fun along the way! As you will be aware, RTPI SW has recently held elections and I would like to welcome both new and returning committee members whoever you might be (at the time of writing I don't yet know the outcome).

**Brett Spiller, Chairman**

### In this edition:

- 2 News from South West Planning Aid
- 3 Spotlight: The Planning Inspectorate  
RTPI - shaping the debate on planning

- 4 Regional Planning and LDF's Conference
- 5 SW Annual Dinner
- 6 RTPI President Anne Skippers visits the SW
- 7 TLT - Planning guidance

- 8 Certificate in Planning Enforcement  
Kath gets walking  
Preservation of the RSS Evidence Base  
Diary Dates





## ONE SOUTH WEST SWALLOW DOES NOT MAKE A SUMMER!!! Aristotle



It certainly has been a hugely busy summer for Planning Aid in the South West with a huge variety of “swallows” being delivered, with our volunteers playing a central role in our success.

South West Planning Aid published its summer newsletter, *Planning locally Matters*: covering much of interest for clients, stakeholder and volunteers.

Whilst our volunteers have all received a copy, you can download a digital version through [http://www.rtpi.org.uk/download/9901/south\\_west\\_planning\\_aid\\_summer2010\\_newsletter.pdf](http://www.rtpi.org.uk/download/9901/south_west_planning_aid_summer2010_newsletter.pdf).

Do let our office know if you need any hard copies for promotion within your organisation and beyond.

## PARLIAMENTARY PATRONS IN THE SOUTH WEST



Planning Aid England has been recently focusing its energy on strengthening MP engagement in light of the opportunities provided by the forthcoming Localism Bill both nationally and locally. Our efforts are now coming to fruition with the securing of 5 Parliamentary Patrons currently in the South West who will act as champions for Planning Aid, with potentially more to follow.

Plymouth based MPs Alison Seabeck (pictured here with Peter Orban at an recent RTPi/Planning Aid Parliamentary Reception) and Oliver Colvile together with Cornwall based Stephen Gilbert and Dan Rogerson together with James Gray from Chippenham have kindly accepted our invitations and will act, from time to time, as one of our ambassadors, occasionally providing us with parliamentary advice or perhaps appearing with us in local or national publicity. Their support is especially welcome.

In addition to the valuable contributions our volunteers make towards Planning Aid’s core Community Planning and Case Work services (as referenced to within our summer newsletter), our volunteers also support us in a number of additional ways. These activities have recently included the hosting of international dignitaries, MP constituency research, engagement in a pilot project concerning the local development of Community Forums and membership of the South West Planning Aid Advisory Panel (SWAP).

## SOUTH WEST ADVISORY PANEL

Each Planning Aid service is required to develop a panel as part of Planning Aid England’s Programme Management Framework. Whilst this sounds rather grand, the SWAP essentially provides a “sounding board” of non-binding business and planning advice to its particular service team (and also to an overarching National Advisory Panel).



The SWAP consists of around 12 volunteers from around the region, each of whom is

able to contribute ideas and guidance from their extensive range of professional experiences and skills. Our panel, which meets nominally on a quarterly basis, has existed under several guises over several years and is expertly steered by its Chair, Mike Oakley. Mike is pictured here (second from left, next to Chloe) at a recent meeting with members Bob Maynard, Pat Steward, John Bosworth, Julie Allington and Sarah Martin. Their support, in what is quite an unusual volunteering role, is extremely valuable and gratefully received.

If you want to know more about the SWAP or opportunities for volunteering for Planning Aid in the future (and indeed we have some exciting activities lined up including an impending potential visit by the Minister of Decentralisation, Greg Clark MP and a visit to Devon by Princess Anne in October!!!), please contact any of our team or look at [www.rtpi.org.uk/planningaid/volunteer](http://www.rtpi.org.uk/planningaid/volunteer).

### PETER ORBAN

*Interim Regional Manager South West Planning Aid*  
[swco@planningaid.rtpi.org.uk](mailto:swco@planningaid.rtpi.org.uk)/0117 929 7292

# SPOTLIGHT ON...

## The Planning Inspectorate



**Anyone involved in the planning system will know about The Planning Inspectorate (PINS), but how much do you really know about this Bristol based organisation that covers all of England and Wales?**

- PINS is just over 100 years old, we celebrated our centenary in December 2009.
- It is the biggest employer of Chartered Town Planners in the country.
- Administrative staff don't just process appeals, they also chart Inspectors diaries, liaise with local authorities and agents and provide policy advice.

PINS a long standing supporter of the RTPI and RTPI SW, often providing Inspectors to speak at events and has long been represented on the Regional Activities Committee as well as General Assembly and Summer School. We have been delighted to win the RTPI award for Lifelong Learning for the second year in a row and our Planning Officer team includes a former Young Planner of the Year as well the Today's and Tomorrow's Leader's in the SW.

In terms of development plans, we have rolled out a process of early engagement visits with local authorities and produced guidance such as "Examining DPDs: Learning from Experience". The advice in Learning from Experience, and the quote below from Plymouth City Council, ought to dispel some myths about Local Development Frameworks:

*"The new examination system is a vast improvement on the old Inquiry system...Plymouth's experience of the new examination process has been that it has proved helpful to everyone. Our Inspector, Douglas Machin, was particularly adept at ensuring key areas of contention had been thoroughly probed and that everyone had had a fair opportunity to voice their opinion. The whole of the inquiry process was run on relatively informal lines, but was clearly focused on providing him the Inspector with the additional information he needed to make an informed judgement about a particular matter. By the end everyone seemed to feel they had their say and been involved in genuine debate. The final test of the new inquiry system is - did it lead to a sound plan being adopted? The answer is, yes it did, but with the added bonus that in fact it also helped us improve the plan as a direct result of the examination process".*

Our Inspectors determine S78 appeals as well as enforcement and rights of way and more specialist work, such as TPO appeals. We introduced the Householder Appeals Service in 2008 and in 2009/10 we implemented measures in the 2008 Act, including the power to determine the appeal procedure. Another myth worth dispelling is that Inspectors won't support LPAs at appeal where design is an issue. Good design is now a statutory duty. All Inspectors have received design training but they do rely on LPAs to tell them why the scheme is good or bad (remembering that different is not the same as bad), and a demonstration that wider contexts have been taken into account, including policy and town/landscape.

Neither time nor The Planning Inspectorate stand still, and we will continue to adapt to new policy approaches and look to the future as we work with the Infrastructure Planning Commission.

### RTPI SW SPECIAL BUSINESS GENERAL MEETING

The RTPI SW Special Business General Meeting will take place on Thursday 11th November 2010 at 12.45 pm.  
Go to <http://tinyurl.com/RTPISWSBGM> for further details.

## RTPI – shaping the debate on planning

Members are often interested in how the Institute is promoting the value of planners and an effective planning system. The RTPI this year launched "Shaping the Future", the Institute's manifesto for planning. It summarises our aspirations and position on leading issues facing planners, as well as setting out what we will do to achieve these aims.

Recently the RTPI has been very active in responding to the constant flow of government announcements on planning and is concerned about the speed of these changes and their impact. Regional spatial strategies have been revoked; local enterprise partnerships and a regional growth fund announced; swingeing cuts are starting to affect planning departments and a whole tier of regional government has been removed.

We were one of the first organisations to meet decentralisation minister Greg Clark, and – accompanied by Local Government and Planning Minister Bob Neill - he gave his first public speech on planning reform at our annual Planning Convention in June. Showing that the CLG team are keen to engage with the profession, Clark spoke to delegates and both ministers took questions from the floor. We also held a parliamentary reception hosted by Labour MP and former Housing and Planning Minister Nick Raynsford. This was an excellent opportunity to communicate our key messages from our manifesto and it was a particular coup that the new Communities Secretary Eric Pickles spoke at this event.

We have a detailed political engagement strategy in operation, monitoring all ministerial and departmental announcements, as well as building relationships with the new government. We continue to develop and strengthen our existing relationships with civil servants, something that has proved fruitful since the coalition government took office.

The RTPI's Policy & Practice team gives high level policy input to government initiatives on a daily basis. We respond to formal consultations, with specialist practitioners through our networks, regions and nations, to develop robust Institute positions on matters such as on the proposed 'Community Right to Build', marine planning, and the emerging Localism and Decentralisation Bill. Since the election, members of the policy and practice team, or representatives from the networks, have frequently met civil servants in Westminster to engage on particular issues.

In recent weeks, we have taken a strong stand in support of planning, and of course our members, regarding the revocation of regional spatial strategies and the strategic planning apparatus. The RTPI has brought together a group of 29 organisations including the WWF, RIBA, BPF and RICS, CPRE and CLA, who have jointly written to Eric Pickles, offering to work with the coalition government to ensure that the localism agenda can deliver and that sub-national planning is developed successfully.

This campaign achieved extensive national press coverage in the FT, Guardian, Sunday Times as well as coverage in the trade press and on national radio and television, including 'Newsnight', the 'Politics Show', the 'One Show' and Radio 4's 'Today', demonstrating how far we have come in being recognised as the key national voice for planning.

To help our members understand the changes happening to the planning system, [www.rtpi.org.uk/policy](http://www.rtpi.org.uk/policy) covers all the latest government announcements and statements, with a summary of their impact for the planning profession, and as the impact of these changes becomes clearer we will be running training events to keep you up-to-date with what is happening to the planning system, working with others, such as PAS and PINS, to provide practical advice to our members.

As our President Ann Skippers has said, in our centenary year, let's stand firm and stand up for planning, confident in our abilities and skills to help communities achieve their dreams, to help Government achieve their aspirations and to help make our world a better place.

# So, it all rests with the Core Strategies now!

## Regional Planning and LDF's – Plymouth Conference 14 July 2010

When 2010 Chairman Brett Spiller was planning the year's conference programme many months ago, he could hardly have chosen a more opportune time to feature this subject. Perhaps as a last minute change of title, the 90 delegates and six speakers, including RTPI President Ann Skippers, who enjoyed the spectacular surroundings of Plymouth University's Roland Levinsky Building, should have been discussing 'non Regional Planning and the LDF's' !! Suddenly, the Core Strategy has become the only element of the statutory development plan, with the revocation of all RSS policies, and 'regional' has become a non-term in central government circles, to be replaced by 'larger than local level'.

In the wake of the 'shock and awe' of the new Coalition Government's instant reforms to the English planning system, the speakers between them delivered messages of concern, encouragement, guarded optimism, good practice and evidence of the considerable recent activity of the RTPI nationally on behalf of both its members and the cause of strategic planning.

Rynd Smith, until recently the Institute's Head of Policy & Practice and now Director of Development Plans, Policy & Quality at the Planning Inspectorate, provided a run down of LDF progress and issues, as at the end of May. He was careful to stress that his role for the conference was one of 'scene setting'. It was for others to pass judgements or speculate on the development plan future ! He reported that, between them, the 300 or so English local Planning authorities, had submitted 270 Development Plan Documents (DPD's) of which 124 were Core Strategies. So far, 62 of these had been found 'sound' and 8 had been found 'unsound'. Progress against the 2004 Act expectations thus remained very slow and nowhere more so than in the South West. In this region, after an initial positive burst, which saw South Hams, Plymouth and Mid Devon in the van of successful submissions, there had been serious delay. Across the 43 local planning authorities there were still only 7 sound Core Strategies in place, together with 16 other DPD's and 4 Strategies had been found 'unsound'. Looking at the national picture once again, there was however some cause for optimism, as the rate of DPD submissions had increased sharply over the past year and there were currently 63 Examinations in progress ( including a handful in the South West). Many more authorities were now 'confident that they were getting things right' and the 'early engagement visits' by PINS staff were proving helpful in increasing the numbers



final message for planning authorities was seek out the now extensive information on good practice and focus on the contents of the Acts and Regulations plus PPS 12 . It was upon these, he said, that the key questions from Inspectors at Examination would all be based.

John Baker, of Baker Associates drew on his firm's considerable experience of LDF practice in pleading that the system is not 'broken', but is suffering from neglect and in need of going back to first principles. The painfully slow progress on Core Strategy production has been due in large measure to a failure of commitment on the part of councils and failure on the part of planning professionals to assemble the resources needed. LDF's had become 'lost in space' and should have been progressed in parallel and 'in dialogue with' the RSS's , instead of which there had been top down policy direction. He concluded with some new 'known unknowns' – what is 'localism' going to mean in practice; who are the representatives of the newly empowered communities and neighbourhoods; are we about to open the door to 'mobocracy'; can you have a 'community of interest' as well as a community of place; and how are relationships and disputes between adjoining districts going to be handled?

Esther Richmond, of Cornwall Council's Strategic Developments Team, provided an up-beat and optimistic account of successful community engagement .Her experience with such work in Kent and elsewhere, including Parish Plan making, together with that more recently in Cornwall, notably on the Truro & Threemilestone Area Action Plan and the Clay Community Eco-town stakeholder engagement, suggested a number of key lessons – knowing the right questions to ask ; being clear about the 'boundaries' of engagement ; providing feedback ; and not under-estimating people's wish to use their own particular skills in helping with such things as workshops.

Geoff Walker, RTPI South West Policy & Media Officer, then addressed the issue of the vacuum left behind with the abolition of regional planning. Basing his presentation on a paper prepared for the RTPI SW website, he followed a little 'history lesson'

on regional planning both nationally and in the South West , with an explanation of why 'a vacuum'. The issues included both questions, such as what will the Government's new system eventually look like and what are to be the transition arrangements, and matters of concern, such as the extra pressure to be put on an already struggling LDF system and the dissipation of valuable skills with the abolition of RDA's and other regional bodies. At the same time, there were opportunities – reduction in development plan complexity, making things easier to understand for everyone and giving local planning authorities the chance to concentrate resources on completing Core Strategy work 'unencumbered' by RSS policy with which they may not have agreed ! It was clear however, that those issues facing the South West needing a strategic (probably regional) response could not be 'revoked'. Did all this, he asked, point to a new 'regional conference' of some kind within two years?

It fell to RTPI President Ann Skippers, on the first day of her action-packed South West visit, to raise the spirits and 'rally the professional troops' in her post lunch presentation. The Institute, she reported, had been very active, both in the months prior to the General Election and in the short time since the arrival of the Coalition Government. It had already been usefully engaging with new Ministers, like it or not, some things were already becoming clear. The word 'region' now appeared to be very dirty indeed in Whitehall and had been replaced by the term ' area larger than local' and Ministers wanted to know what we (as planners), would do to make 'localism' work ! At the same time, the Institute was promoting the new Manifesto and although it was certainly not a TCPA-type lobby organisation, it had engaged in more high profile campaigns than in the past, eg. against the proposed cuts to planning higher education in Scotland and the 'downgrading' of the Northern Ireland Planning Service. The Manifesto, the most substantial long-term RTPI document produced for some time, had 14 key points on which to focus, and addressed what was seen as the profession's USP – 'working for the public good'. Ann also touched upon the work being done with 28 other national bodies to develop a ' Programme for Planning' stressing the continuing importance of strategic planning, which has subsequently taken the form of a joint letter to Eric Pickles and press notice [5 August 10].

Making the RTPI South West Conferences more proactive for delegates has been one of Brett Spiller's aims this year and in

Plymouth, Ann, John and Geoff were each tasked with leading an afternoon workshop session. These covered, respectively, 'the Institute's current work: questions and answers'; 'Arriving at housing numbers without the RSS' and 'Bridging local authority administrative boundaries'. The last of these, for example, challenged the delegate sub-group to brainstorm examples known to them of current joint working (across boundaries) within the South West – of which there turned out to be many, and then to identify what were seen to be the difficulties of such

working and finally, the advantages and benefits to be gained. There seemed to be as many 'barriers' to as there were benefits of joint working, though there proved to be insufficient time to make a proper 'on balance' judgement.

So, overall, delegates went away encouraged by the messages from the Institute President, moderately encouraged by what they heard about LDF's and the good practice in community engagement within the region, but still in shock at changes to the planning system and

uncertain as to the outcome of these, with their own jobs on the line in some cases. The 'localism' as promoted by the new Government is, as yet, an unknown quantity and much would appear to be expected now of Core Strategies and of the planning professionals preparing and implementing them.

**Geoff Walker**, RTPI SW Policy/  
Media Officer

## RTPI SW Annual Dinner – 16th July 2010

### The Rougemont Hotel, Exeter

140 planners and colleagues from around the SW congregate in Exeter for the 3rd annual black tie dinner, sponsored by CSJ Planning, New Earth Solutions, Stride Treglown, University of the West of England, WYG Planning and PCL Planning.



Pat Steward receiving draw prize



left to right Kath Haddrell, Chris Shepley, Brett Spiller and Mark Southgate



Chris Shepley,

Our guest speaker this year was the SW's own Chris Shepley who not only had us in fits of laughter with extracts from "Grotton Revisited" (see Issue 143 for more details, or better still, buy the book – it is a laugh out loud read and a must have on any planners bookshelf!) but also added some more serious points about where planning might be going. As I often say when reading his articles in Planning, "thank god for Chris!" I have found out (through these very pages) that standing up for planning and common sense does not always make you popular, but at least having the courage to do so, especially in the current climate, means that you can stand up and be counted.

We took the opportunity this year to raise money for FORCE (Friends of the Oncology and Radiotherapy Centre, an Exeter based charity) in memory of Philip Watts who died earlier this year and was a longstanding member of the Regional Activities Committee and a former Chair of the Region. We were delighted that his partner, Jill, was able to join us for the evening.

As ever, huge thanks must go to Helen Clarke for the bulk of the organisation of the dinner. It is an additional and time consuming task, but one that those who attend the dinner seem to agree that it is well worth the effort!

With thanks to all our sponsors:



Invited guests of the RTPI

**Branchout  
Electronically**

In an effort to reduce costs and the environmental impact of printing on paper, the Region is pleased to confirm that Branchout can now be received electronically. If you would prefer to receive in this format please email Helen Clarke at [southwest@rtpi.org.uk](mailto:southwest@rtpi.org.uk).

# RTPI President Anne Skippers visits the South West!

The RTPI President, Ann Skippers, enjoyed an action packed visit to our region in July. The visit was facilitated by RTPI SW and Ann was chaperoned by our very own Chairman, Brett Spiller who commented:

*“The presidential visit is a great opportunity to showcase some of the positive things that have been promoted and facilitated by planning professionals in our region. We also hope that it will boost morale in the South West just at a time when this is especially needed.”*

RTPI SW went to great lengths to ensure that Ann had an opportunity to meet as many planning professionals working in the South West as possible... and there's no better venue than at one of our conferences. Ann kindly agreed to make a presentation at our conference on Regional Planning and LDF's (latterly re-titled LDF's and LDF's) held at Plymouth University's prestigious Roland Levinsky Building. Ann focussed upon how the RTPI is engaging with the new Government, although she also took great care to emphasise the subtleties of effective communication and convey that it's not all about what appears in the headlines. Ann articulated the RTPI's well documented concerns over the abolition of Regional Planning and alluded to how we are working collaboratively to raise the profile of this important issue. However, this was tempered with the realisation that the RTPI also needs to work with the Government on the localism agenda to deliver a pragmatic workable system. The RTPI's **'Shaping the future'** manifesto providing a positive statement of intent and hence puts forward suggestions on how the planning system might be improved. Ann again took great care in explaining that the manifesto is far more than simply a list of campaign themes for Government to action; it contains actions for the RTPI and its members too.

Ann facilitated a workshop session in the afternoon. This allowed delegates to put questions directly to the RTPI President and air their views on the challenges facing our profession here in the South West. It provided Ann with an opportunity to hear members concerns first hand and explain what the RTPI's role is responding. The feedback reaffirmed what we all knew to be the case, namely that Ann's presentation and workshop session had been exceptionally well received!

The next day kicked off in Weymouth (reputed to be the forth most up and coming seaside resort in the World!), where Ann and Brett were joined by Mike Oakley, RTPI SW Assistant Secretary. Simon Williams, Head of Planning at Weymouth and Portland Borough Council and well known to the RTPI SW as a former long-standing member of the RAC, kindly guided the group on a tour of key development and regeneration sites in the Borough. This included stopping off to see the construction of the Weymouth Relief Road, a drive-by tour of Weymouth College, the Pavilions and Ferry Terminal, the Harbour quayside, Brewers Quay and Nothe Fort. Simon also drew attention to some of the finer details of the seafront regeneration, which included engendering pride in the Victorian seafront terrace and encouraging the reinstatement of architectural details, the promenade lighting and refurbishment of the shelters. We were all overwhelmed by Simon's enthusiasm. Ann commending his commitment and observed that there was much to be excited about! Simon, humble as ever, quickly emphasised that it was the result of a team effort and praised the support of the Borough's Councillors.



Photo: Ann with Simon Williams – the blustery conditions re-affirming that this is indeed an excellent location for sailing.



Photos: Weymouth and Portland National Sailing Academy.

Our next stop was Weymouth and Portland National Sailing Academy, home to the 2012 Olympic Sailing events and important part of the regeneration at Osprey Quays. John Tweed, Chief Executive of the NSA greeted us and provided an overview of the development of the Academy from inception to the current time. We were all very impressed by the assured dedication and professionalism of the delivery team. The NSA received an award from RTPI SW owing to the success of the partnership approach. It was interesting to hear about SWRDA's enabling role and this prompted more than a little reflection on the imminent demise of this organisation. The NSA has gone on to receive many more awards as a sporting venue, competing on both a national and international level. We were all delighted to hear John talk so passionately, not just about the Academy's facilities, but also its accessibility.

We were then joined by Chief Planning Officers, Policy Managers and Development Management Managers from across Bournemouth, Dorset and Poole. Attendees were treated to presentations from Ann, Simon Williams and Maxine Bodell; followed by a lively questions and answer session chaired by Trevor Warwick, Chairman of DPOP. Unsurprisingly the hot topic of conversation was communication with the new Government on both planning reforms and spending cuts. However questions were also posed about the incentivisation of rural exceptions sites, Development Management officer workloads and benchmarking, the complexity of the revised GDO.

Following the RTPI Presidents visit, Trevor Warwick commented:

*'I have had very positive feedback from local planners regarding the President's visit'. We all feel that Anne Skippers is very much on the case, which is exactly what we all need in these rapidly changing times.'*



Photo: Ann at the National Sailing Academy with Planners from across Bournemouth, Dorset and Poole

Ann's last stop at the end of a busy day was New Earth Solutions Group's Mechanical Biological Waste Treatment and renewable energy facility at Canford in Poole. This pioneering facility plays a key role in diverting waste away from landfill and offsetting carbon emissions.

Ann has written to RTPI SW to pass on her thanks for a very interesting and informative visit. Brett Spiller, RTPI SW Chairman, would also like to extend his thanks to all those who assisted in the organisation of the activities and to all who participated in discussion with Ann.

# Planning guidance to be taken from recent cases



Christian Silk, associate at TLT

A couple of recent cases have provided helpful guidance as to best practice in dealing with conditions attached to planning permissions and what may constitute a material consideration. The first involves a planning permission for a supermarket which limited retail floor space and the second involves the proximity of a school to a proposed hot food takeaway.

## The scope of conditions applied to a planning permission

In the case of *Midcounties Co-operative Limited v Wyre Forest District Council*, *Midcounties Co-operative Limited*, sought to challenge the grant of planning permission by Wyre Forest District Council to Tesco Stores Limited for a supermarket. The planning permission included a condition which allowed 'net retail sales up to 2,919 square metres unless otherwise agreed by the Local Planning Authority'.

Midcounties' claim for judicial review was dismissed and it appealed to the Court of Appeal claiming that the applicant had only applied for 2,403 square metres of 'floorspace for retail trading' and this is the area that was assessed by both the applicant's experts and the Council, not the 2,919 square metres of 'net retail sales' which was set out in the condition attached to the planning permission. As a local planning authority cannot grant planning permission for more than was applied for by the applicant, Midcounties contended that the planning permission was unlawful.

The Court referred to the background documents which supported the planning application as these were incorporated in the planning permission by appropriate wording, and it determined that there was no uncertainty as to what was meant by the limits set out in the condition. The 2,919 square metre limit related to the whole of the area to which the public would have access. This included sales areas, check out desks and areas leading to exits, whereas the 2,403 square metres applied for only related to the area for the display of goods for sale. The Court acknowledged that there was a weakness in the wording of the condition and stated that it was obtuse, particularly as it did not set out any restriction preventing Tesco from using more than the 2,403 square metres as 'floorspace for retail trading'.

However, an additional consideration was that Tesco had entered into a Section 106 agreement which limited the area for the sale of goods to 2,401 square metres (rather than the 2,403 square metres applied for). Considering this along with the conditions applied to the planning permission, the Court was satisfied that the planning permission was not unlawful and that the scope of the planning permission limited the use of the supermarket to the area which was applied for by Tesco.

This provides an example of poor condition drafting, and mixed terminology in planning application documents - which included references to 'net sales', 'net retail sales' and 'floor

space for retail trading', none of which were defined - which can lead to real uncertainty and the risk of challenge by judicial review. If Tesco had not entered into a Section 106 agreement limiting the area for the sale of goods, the court may not have been quite so willing to find that the planning permission was lawful.

## Material considerations

In the case of *Copeland v London Borough of Tower Hamlets* the decision of the London Borough of Tower Hamlets to grant planning permission for the change of use of a grocery shop to a hot food takeaway was challenged on the ground that the Council had failed to take into consideration the proximity of a school to the application site.

The planning application was assessed against development plan policies, none of which contained a restriction on hot food takeaways due to their proximity to schools. The planning officer noted in his report that the school was trying to promote healthy eating and that the school believed that the introduction of a hot food takeaway would encourage poor eating habits. However, he informed the Council's planning committee that this was not a material consideration.

The High Court concluded that the proximity of the school to the hot food takeaway was capable of being a material consideration since it relates to the use of land.

In light of the High Court's decision, the proximity of the school to the hot food takeaway was clearly capable of being a material consideration, although this would not necessarily have led to planning permission being refused if the Council's planning committee had determined that it was not a material consideration in relation to this particular planning application, or if it had determined that it was a material consideration but that it should be given little weight.

*For more information please contact Christian Silk on 0117 917 7580. Christian is an associate in TLT's Planning and Development team with experience in all aspects of planning law. TLT is a top 100 UK law firm with offices in Bristol and London. Visit [www.TLTsolicitors.com](http://www.TLTsolicitors.com).*

## Certificate in Planning Enforcement

Congratulations to Kirsty Smith from Cornwall. She is the first person to successfully complete the three modules of study that together comprise the Certificate in Planning Enforcement at the University of the West of England in Bristol. The course provides a flexible pattern of learning based around a combination of attendance at short courses on enforcement and related subjects, private study and a project undertaken in the workplace. Kirsty clearly benefitted from studying and her employer gained a more confident and well informed officer. Kirsty's own words sum up her experiences.

"On my return to work after a career break I trawled the UWE web site and with agreement from my management found myself a mature student 'back to School and University no less'. With the support of an academic tutor and a work place mentor, I launched into my first module which covered the basics of planning and enforcement. Attending the short courses is interesting and fun, speaking with others on the short courses and swapping working practice and ideas is very beneficial and it is really useful to talk to the tutors informally whilst eating an excellent lunch. The practical tasks and projects were more brain taxing, however as I grew in experience the course strengthened my knowledge, I viewed each new enforcement case from different angles questioning, researching and drawing to a conclusion often using my new favourite phrases such as 'on the balance of probability' and 'where's the harm'. The final module Expert Witness was my favourite. It was an eye opener. Acting as an advocate in a mock inquiry has removed my fear of appearing at appeals and inquiries and I am now looking forward to a couple of pending appeals with enthusiasm.

Overall the experience of studying has given me confidence, having attained the certificate in planning enforcement over three years along side my role as an officer, I feel I have reached the status of a Senior Officer and do not hesitate to give guidance to others, the confirmation of my attainment is not the certificate alone, but being sought by others in Development Management for an opinion, chairing meetings with conservation and other area teams and discussing case merit and reasoning development issues to a conclusion. In addition my employer has gained an officer who has a more informed balanced approach - based on knowledge and experience. Thank you to everyone at UWE and at work who supported me through this process. "

For more information about the pattern of study required to reach Certificate level please contact Sarah Howell at UWE on 0117 328 3996 or e-mail Sarah.Howell@uwe.ac.uk

## Preservation of the RSS Evidence Base

Given the demise of regional planning functions and the revocation by the Secretary of State of the RSSs, I have taken steps to ensure that the evidence base behind the draft RSS for which the South West Regional Assembly, as Regional Planning Body, was responsible is preserved. Both the Regional Assembly and South West Councils websites have now been archived through a snapshot of their content by the British Library / National Web Archive. This ensures that the pages and their content are preserved for future use.

The South West Councils website is preserved via the following link -  
<http://www.webarchive.org.uk/ukwa/target/55148544/source/search>.

The Assembly website is available via  
<http://www.webarchive.org.uk/ukwa/target/55148545/source/search>.

These archived pages are a snapshot (i.e. frozen) and will not be affected by any changes made to the existing South West Councils website.

**Stuart Todd** Programme Manager - Housing, Local Economy and Climate Change South West Secretariat supporting South West Leaders, South West Councils, South West Employers & Improvement and Efficiency Partnership

[stuart.todd@swcouncils.gov.uk](mailto:stuart.todd@swcouncils.gov.uk)

## Kath gets walking

Nagged into action by Julie Laming from CSJ Planning, I finally signed up to take part in the 13.1 mile Bristol Sun Walk, which took place in and around Bristol on the 4th July and joined the "Racy Ladies" team.

While I can't honestly say that I much enjoyed the training or the race itself, (even as a student in Bristol I never walked up Park Street in a bra!!) I was hugely motivated by the fact that the Racy Ladies raised £1028 for breast cancer charities.

To compound matters, I then took part in the Milton Keynes "Midnight Moo Walk" on Saturday 17th July, the night after the SW Dinner with Tracy Smith from Wiltshire Council, which was a 10 mile walk around Milton Keynes in aid of the local hospice, raising £130. Before we set off, it was announced that the walkers had raised

L-R Becca, Debs, Kath, Jen & Jules



enough money to pay for 6 nurses for a year.

Thank you so much to everyone who sponsored Julie, Tracy and me, you've helped make a big difference to some really worthwhile charities. Not only are the Racy Ladies going to maintain our training (honest girls, I will come back...) but we intend to do more of this, hopefully entering the London Moon Walk next year. That's 26 miles, at midnight. This from a girl who thinks 10pm is a late night!

**Kath Haddrell**

### All contributions for Branchout to:

Branchout Editor: Kath Haddrell

#### Contact details:

Email: [Kath.Haddrell@infrastructure.gsi.gov.uk](mailto:Kath.Haddrell@infrastructure.gsi.gov.uk) Tel (day): 07976 898360  
Address for correspondence:  
Ground Floor, East Reach House, East Reach, Taunton. TA1 3EN.

#### The deadline for the next edition is 12th November 2010.

The Royal Town Planning Institute is a registered charity in England and Wales No 262865 Registered Office: 41 Botolph Lane, London EC3R 8DL.

## DIARY DATES

Friday 15th October 2010 – RTPI SW Conference – Climate Change – Delivering Essential Waste, Energy and Flood Management Infrastructure - With the recent announcement of a geothermal renewable energy scheme, we are delighted that the Eden Project will play host to this conference. Our excellent range of guest speakers will bring you up to speed on the scale of the challenge, assessment methods, current best practice, technological innovation and design. We'll look at the drivers behind delivering new infrastructure and just what makes it so essential! With the IPC based in the SW region, we will also seek an insight into how it is dealing with Nationally Significant Infrastructure Projects. Venue: The Eden Project, St Austell. Cost £75+VAT Special rates for full time students/retired/unwaged members.

Wednesday 24th November 2010 – Planning Support Staff Workshop – This half day event will cover 3 topics; registration and validation, LDFs and planning policy and planning legislation simplified. Venue: University of Plymouth. Cost £15+VAT.

Friday 10th December 2010 – RTPI SW Conference – Design - Our guest speakers will explore best practice in design, the implications of new sustainability standards (such as the code for sustainable homes) upon new development. We will also take the opportunity to see how the reform of heritage designations has bedded in and the implications for keeping the fabric of our historic towns alive. Venue: The Guildhall, Bath. Cost £75+VAT. Special rates for full time students/retired/unwaged members.

Friday 28th January 2011 – RTPI SW Conference – Retailing and Employment – Venue: Armada House, Bristol. Cost: £75+VAT (for RTPI members).

Friday 18th February 2011 – RTPI SW Conference – Development Finance and Infrastructure – Venue: Somerset County Cricket Club, Taunton. Cost: £75+VAT (for RTPI members)

Further details available from Helen Clarke, RTPI SW Coordinator, Tel 01823 250822 or email [southwest@rtpi.org.uk](mailto:southwest@rtpi.org.uk)