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Chair's comments



Greetings, and welcome to the first YPC newsletter for 2011. It has been a busy few months for YPC with two successful events in the last few weeks. The first, a quiz night held in Cardiff in association with Planning Aid Wales; and the second, a visit to the BRE site in Ebbw Vale.

If you didn't have the opportunity to attend the events, don't worry we are looking at organising a second quiz night later in the year. The Welsh Future Homes project is also open to visitors by appointment and well worth a visit!

YPC are currently preparing an itinerary of summer activities so keep in touch and pass on the newsletter to all those who may be interested. If you have an idea, or want to assist with running an event, feel free to contact the group to get the ball rolling.

For any budding columnists out there, YPC have also opened up the newsletter to articles from the development industry (and related professions). If you have an interesting project or case and would like to share it with the planning community please contact YPC on info@youngplannerscymru.org.uk.

I am pleased to announce that Graham Walters from Civitas Law has contributed to the first issue with an article on Change of Use and Certificate of Lawfulness

Out and about

As many of you know I like to get out and about travelling around the UK and the last few months have been no exception. So, for the next few editions, I thought I would give a brief overview of some interesting places I have had the chance to visit.



One of my favourite places so far this year has to be Bristol Paintworks. The site is based on the philosophy of encouraging creative industries; however it also embodies the principles of sustainable living integrating live work units on site.



The site occupies approximately 2.3 hectares and was formally a vacant industrial site which lacked any real commercial interest and provided little to the surrounding community. The redevelopment works have since provided a bespoke opportunity for creative industries to flourish; now occupied by designers, craftsmen, studios and performance spaces (which include the BBC 'Deal or no Deal' studios).

The design led development of the site is evident from the quality of materials and developers attention to detail to preserve and enhance the historic identity of the former industrial site. This has helped create a series of lively and interesting public and private spaces which the 'old and new' community have clearly embraced.

The 'Bocabar' has become a focal point for the community in the day and evening. However, in the evening you also get to experience the lantern light shafts on top of the historic units which emphasises the sites unique ambience and character. The site also incorporates other quirky pieces of art; my favourite had to be the 'Zebra' crossing. The initial 2 phases are now substantially complete with phase 3 due to commence in the coming months.

For further information on phase 3 why not take a look at the [Design and Access Statement](#) or pop down on the train for a walk around. Alternatively why not join YPC on [Facebook](#) to take a look at some more photos of the development.

Wayne Reynolds (Chair, YPC)

Pub Quiz 2011

Over 70 young (and some more mature) planners from around South Wales attended the Young Planners Cymru and Planning Aid Wales first Pub Quiz of 2011. With over 15 teams the competition was fierce and the questions tough (too tough for some!).

- | | |
|--|---------------------------------|
| 1. Regeneration Limited (57 points) | 10. Debators (44) |
| 2. WAG (54) | 10. Bye Winning (44) |
| 2. Red Dragon (54) | 12. Real Planners (43) |
| 4. My daughter thinks (53) | 13. G Rules (33) |
| 5. Quizirascal (52) | 14. A planner in the works (32) |
| 6. Mighty Morphin Urban Arrangers (48) | 15. BLOC (22) |
| 7. DPP (47) | |
| 7. Geology Rocks (47) | |
| 9. Planathanikos (46) | |

Note: Some names have been edited!

The prize for the best name went to the 'Mighty Morphin Urban Arrangers' - a truly ingenious name for a planning consultancy I'm sure you would agree.

Prizes donated by:

ATKINS



Nathaniel Lichfield and Partners

RTPI Young Planner of the Year 2011

Entries are still open for the RTPI Young Planner of the Year Award 2011 and Young Planners Cymru would encourage nominations to represent the fantastic work that young planners are carrying out in Wales. The award is in the gift of the Institute and is intended to seek out and acclaim the brightest younger planners involved in the profession. This could be in planning practice, innovation, enterprise or philosophy.

Entrants must be under the age of 35 on 31 May 2011.

Nominations will be accepted from employers, colleagues, friends or relations or any member of the Institute who believes a young planner's particular contribution should be celebrated.

For more information please visit <http://www.rtpi.org.uk/item/426/23/5/3>



RTPI Young Planner of the Year 2010
Sarah Foster (Peak District National Park Authority)

Getting Involved

Got ideas for events ?

We want to help increase the number of networking and social events for young planners across Wales, but we need your ideas first.

If you have any ideas for an event no matter how crazy please let us know.

Social Networking

We have added a LinkedIn account to our Facebook page to help you network with fellow young planners across Wales .Search for 'Young Planners Cymru' and join in.





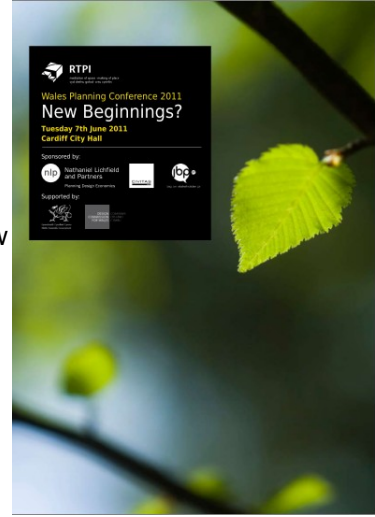
Wales Planning Conference 2011 – New Beginnings ?

Does Wales need a new direction? Can we afford to change direction? Or do we need to plough on and build on the current progress, with adopted LDPs starting to emerge and the proposals to streamline the development management system. How can we make public and private resources stretch to meet Wales’ needs?

The Conference includes its regular programme of plenary sessions, with high profile speakers, an excellent mix of breakout workshops dealing with a range of topics and of course the all-important opportunity to catch up with colleagues and friends old and new from across Wales and beyond. This year’s debate continues the Conference theme to ask whether statutory planning is part of the problem or is it the answer?

When : 7th June 2011 , City Hall, Cardiff
Price : £90.00 exc. VAT Concessions : £50 + VAT (RTPI Students, RTPI Licentiates, RTPI Members who are unemployed or retired)

For more information see : <http://www.rtpi.org.uk/ct/EVENT/1330/11/events/1330>



RTPI National Young Planners Conference 2011 - Birmingham

After the success of the RTPI National Young Planners Conference in 2010 in Cardiff the conference moves to Birmingham in 2011 organised by the West Midlands’ Young Planners group.

The conference provides a great opportunity to engage with key planning issues of the day and offers a chance to meet with fellow young planners from across the UK.

The YPC Steering Group congratulate West Midlands’ Young Planners group on their successful bid and we encourage all our members in Wales to attend. Further information will be sent out in the coming weeks.

When : Friday 21 - Saturday 22 October 2011

See http://www.rtpi.org.uk/young_planners_network/

APC Briefing Events



APC Briefing Events in Wales

When : 6th June (17.00-17.30) Where : City Hall, Cardiff
See : <http://www.rtpi.org.uk/ct/EVENT/1367/11/events/1367>

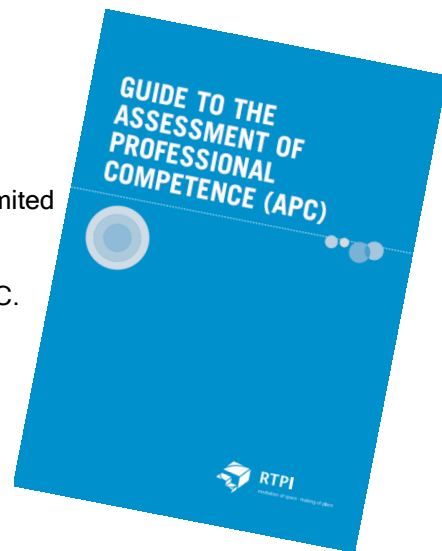
The APC Briefing Event is free but advanced booking is essential as places are limited and are allocated on a first come first serve basis.

The education team at RTPI have also uploaded a number of podcasts on the APC.

- An introduction to the RTPI and the APC (4mb)
- The APC - an overview (8mb)
- Beginning the APC. What should I do now? (9mb)



These can be downloaded here:
http://www.rtpi.org.uk/join_the_rtpi/assessment_of_professional_competence/



On Thursday 31st March, young planners from across Wales descended on the town of Ebbw Vale to attend the 'Welsh Future Homes' event at 'The Works'. The event was organized by Young Planners Cymru in association with BRE Wales and Blaenau Gwent County Council. This highly anticipated event was the second of a number of events to be arranged by Young Planners Cymru throughout the year.

After taking in the vast scale of the 'The Works' site, delegates arrived at the Welsh Future Homes exhibition where they immediately entered one of the show homes. To kick off the afternoon a number of brief but informative presentations were arranged to provide background information and the basis for further discussion.



The Works

The 'General Offices' and the 'Basement Parks' are the only remains of what was once the driving force of Ebbw Vale town, the Steelworks. As part of the Heads of the Valleys Low/zero carbon Hub, the old steelworks site is due to become one of the most exciting and farthest reaching sustainable development projects in the UK. The masterplan will provide hundreds of new homes, a learning zone, community hospital, leisure centre, school, business hubs and a riverside park. The Welsh Future Homes area is located in 'Res J', the first of a number of residential areas to be built out.

The Larch House

Following the introductory presentations, delegates were given an opportunity to tour one of the 'Welsh Future Homes'. Designed by Bere Architects, The Larch House is the first Code 6, Zero Carbon Passive House in the UK. The house was first showcased at the National Eisteddfod exhibition in Wales for United Welsh and its partners in the summer of 2010 and is a clear statement from the social housing sector in Wales.

The ultra energy-efficient home features 'passive' building techniques such as high levels of insulation, airtight construction, good interior air quality as well as bolt on technologies such as solar panels. As part of Code 6 requirements the home was also built to 'Lifetime Homes' standard. Delegates were in awe of the amount of natural sunlight and fantastic views across the landscape that large, floor to ceiling, south facing windows provided. The potential reduction in utility costs and the home user manuals were also big winners.



Andrew Charles, Senior Planning Manager at Welsh Assembly Government outlined the Welsh policy set out in Planning Policy Wales and TAN 22: Planning for Sustainable Buildings. The policy will help to deliver more sustainable homes like the Welsh Future Homes in guiding development across Wales for the next few years.

Colin King of BRE followed with a useful introduction to the Code for Sustainable Homes, outlining what it covers and how its seemingly complicated scoring system works.

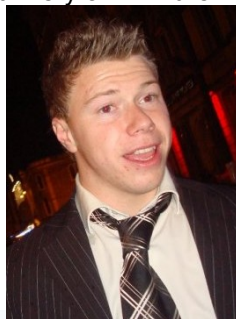
To round off the presentations, Anthony Pyne, Planning officer for Blaenau Gwent County Council, who has been seconded to The Works project, gave an introduction to the Masterplan.

Welsh Future Homes

There were however, some serious discussions such as how the private sector would be encouraged to build to similar standards consistently and how building to higher standards is only one factor in creating sustainable neighbourhoods. The success of 'The Works' project and future projects across Wales will ultimately depend on how sustainable building technologies and neo-traditional design principles as set out in TAN 12 can be fused to produce will minimal compromise.

I would like to take this opportunity to thank Colin King (BRE), Anthony Pyne (BGCC) and our very own Andrew Charles (WAG) for their presentations on the Code for Sustainable Homes, The Works Masterplan and Welsh planning policy respectively.

Steven Trythall,
Student Representative,
Young Planners Cymru



Related Links

The Works

<http://www.theworksebbwvale.co.uk>

Welsh Future Homes

<http://www.bre.co.uk/page.jsp?id=2275>

BRE

<http://www.bre.co.uk/index.jsp>

Blaenau Gwent County Borough Council

<http://www.blaenau-gwent.gov.uk/>

Planning Policy Wales

<http://wales.gov.uk/topics/planning/policy/ppw>

TAN22 : Planning for Sustainable Buildings

<http://wales.gov.uk/topics/planning/policy/tans/tan22>

TAN12: Design

<http://wales.gov.uk/topics/planning/policy/tans/tan12>



Breaking into a career in Planning

RTPI Cymru and Cardiff University CPLAN are piloting a short-term work placement scheme for **planning graduates** living in Wales, who are finding it difficult to get that first break in the planning profession.

The scheme does not offer long term placements; the aim is to provide short term (3 to 4 weeks) opportunities to help those finishing their planning course to retain a link with the planning profession; provide an insight into the professional world of planning; provide valuable experience of contemporary Planning; demonstrate to potential employers continuing interest in, and commitment to, Planning, and thereby strengthening CVs and helping to pave the way into a Planning post.

For employers, the scheme could offer an opportunity for developing supervisory skills of existing junior staff.

Whilst we understand that longer term placements carry more benefits, the aim of this scheme is to increase the placements opportunities available to fulfil the current specific need of helping retain the links with those newly looking for work during the economic cutbacks.

This is a pilot scheme in the first instance and we will be reviewing how it has run later in the summer.

If you have recently completed an RTPI accredited course, are resident in Wales, a member of the RTPI (student or licentiate) and have not had a planning job since completing your course, this scheme may be the break you have been looking for to get into the world work (if only unpaid in the first instance!)

We are also looking for employers wishing to take on placements. We already have a number of planning consultancies, local planning authorities and charitable organisations offering opportunities, but would like to add to the list.

For further information for students or employers please contact Huw Thomas at Cardiff University: thomasH1@cardiff.ac.uk or Roisin Willmott at RTPI Cymru: roisin.willmott@rtpi.org.uk



RTPI

mediation of space · making of place



Deceiving the planning authority - what's the use

Article submitted by Graham Walters, barrister, Civitas Law

At the beginning of April the Supreme Court gave judgment in the case of *Secretary of State for Communities and Local Government and anor v Welwyn Hatfield BC* ([2011] UKSC 15). The case concerned the grant of a certificate of lawfulness of existing use under Town and Country Planning Act 1990 s191 following deliberate deception. The court considered the 4 and 10 year immunity rules and whether a person could profit from his own wrongdoing.

The history

In 2001 Mr Beesley obtained planning permission, subject to conditions, to construct a hay barn on open land in the Green Belt. In 2002 he constructed a building: externally it looked like the permitted barn, internally it was a dwelling house with all modern living facilities. Mr Beesley and his family moved in and lived there continuously for the next 4 years and in mid August 2006 he applied for a certificate of lawfulness for use of the building as a dwelling house further to TCPA 1990 s191(1)(a).

The local planning authority refused to grant a certificate maintaining that the building constructed was not a dwelling house and that enforcement action could be taken within 10 years in accordance with TCPA 1990 s171B (3). On appeal the inspector found that use as a dwelling house had commenced more than 4 years before the application and that the development was lawful within s171B (2).

On appeal to the High Court ([2009] EWHC 966 (Admin); [2010] J.P.L. 352) Collins J said that there had never been any intention to use the building other than as a dwelling and there had been no change of use within s.171B (2).

The Court of Appeal reversed this decision ([2010] EWCA Civ 26). It held that it was for Parliament not the courts to amend the law if deliberate concealment was to be treated differently. On the facts the building was a dwelling house, not a hay barn, however there had been a change of use within s171B (2).

The local authority appealed to the Supreme Court and the appeal was allowed both on the construction of s171B (2) and on public policy grounds.

Change in use

The first issue was the proper construction of s171B (2). There was no argument regarding the lawfulness or otherwise of the building operation itself within s171B (1) and s191 (1) (b) - the submissions concerned use, not operations. The Court agreed that the building was incontestably a dwelling house not a barn.

It held the question was whether the building as completed was a barn or a dwelling house, not whether the development when begun was within the permission.

The permission had not been implemented so the building constructed did not have a permitted use. Accordingly there was no change from a permitted use on this basis as found by the Court of Appeal.

On the alternative ground for finding a change of use - a change from temporary no use after construction to dwelling house use on occupation- the court was equally clear that the analysis in the court below was incorrect.

The issue of change of use should be approached in the round and too much stress should not be placed on the need for "actual" use. The subsection dealt with a change in use not simple unauthorised use and the scheme of the Act did not dictate otherwise.

The argument that there would be an anomaly enabling enforcement action within 10 years against use as a dwelling house when the building operations were immune was not persuasive: if anomalous the 10 year limit clearly applied to non dwelling house uses and the "potential answer" is that "principles of fairness and good governance could in appropriate circumstances" preclude enforcement action to render the building useless.



Deceiving the planning authority - what's the use

Public Policy

Although strictly unnecessary to consider the public policy issue the Court did so because of its general importance.

In many cases of development without permission there is an element of “wrongdoing”, the extent of which may be greater or lesser on the facts. However the court regarded the facts as exceptional holding that the principle that a person cannot benefit from his own wrong could apply to the planning acts and did apply here.

The key facts were that there was a positive deception in obtaining a fraudulent planning application which it was never intended to implement and which was designed to and did mislead the council into thinking that the building was a genuine hay barn and so no enforcement action was taken for over four years. The fact that the conduct may not have been criminal was not decisive. Collateral unlawfulness eg breach of other regulations such as environmental controls, may be distinguished.

Here there was a positive deception in matters integral to the planning process directly intended to undermine the regular operation of the process and from which Mr Beesley was seeking directly to profit.

Lessons for the future

Many will no doubt welcome the decision on the facts and consider that it accords with common justice. Although a striking case the situation may however not be that exceptional. In practice the questions raised now are when will it be fair not to take enforcement action after 4 but within 10 years and just how much deliberate deception is required before a person is prevented from relying on the immunity.



About the author :

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Civitas Law is a barristers set operating in civil and public law across Wales and England. Its public law experts are notable leaders in their field in judicial review, regulatory, planning and development law, as well as arbitration, adjudication and mediation. www.civitaslaw.com.

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