



RTPI

mediation of space · making of place

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Cyril Kearney
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Office of the Deputy Prime Minister
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2005/48

12 December 2005

Dear Mr Kearney

**APPLYING THE PLANNING ACTS TO THE CROWN
Consultation Paper: September 2005**

The Institute is pleased to have the opportunity to comment on this consultation paper, read at www.odpm.gov.uk/embedded_object.asp?id=1147774

We supported the removal of Crown Immunity when it was first mooted in the Green Paper – *Planning: Delivering a Fundamental Change* – and then carried forward into Part 7 of the Planning and Compulsory Purchase Act, 2004. Although the extent of the bureaucracy involved in putting Part 7 into effect is somewhat overwhelming, involving as it does three statutory instruments (the titles of which are daunting in themselves) and a circular, the Institute is generally happy with the proposals, and has only the following minor comments to make -

GENERAL COMMENT

1. The Institute supports the basic proposition that will require the Crown, in general, to apply for planning permission for development in a similar manner to other applicants, with effect from an (as yet) unspecified date in 2006.

DETAILED COMMENTS

DRAFT MEMORANDUM

National Security

2. *Paragraphs 6-24:* We appreciate that considerations of national security may justify non-disclosure of some details of a proposed development, but the procedures for dealing with these situations seem unnecessarily complicated.

Urgent Applications for Crown Development

3. *Paragraphs 25-34:* It is unclear what the Crown has to do to substantiate its case for urgency, and there must be a danger that the “*special urgency procedure*” will be invoked as a more effective route to a planning permission. It should be transparently clear that the LPA is likely to refuse planning permission before the procedure is initiated (*paragraph 27*) – the current wording is insufficiently onerous - and there must be a requirement for a strong case to be made to the Secretary of State for seeking to short-circuit the normal procedures (*paragraph 29*).
4. *Paragraph 30:* We support the inclusion of parish councils in the consultation list. This should make it more likely that local perspectives will be taken into account by the Secretary of State.

Enforcement and Trees

5. *Paragraph 44:* There is something of a flawed logic here. Outside Crown land, the making of Tree Preservation Orders (TPOs) has never been restricted to situations where poor management can be identified. If trees and woodland require protection because they have a significant impact on the local environment, and its enjoyment by the public, neither ownership, nor the quality of management, are relevant considerations. LPAs should not be expected to distinguish between Crown and other land in applying their policy on TPOs.

Use Classes Order

6. *Paragraph 74:* The Institute supports the proposed amendment to the Use Classes Order, 1987, to introduce a new use class C2A for “*secure residential institutions*”.
7. *Paragraph 76:* We are not convinced that this Memorandum is the most appropriate vehicle for the Secretary of State’s advice to LPAs when determining applications for new C2A developments. We would also take issue with the emphasis in the guidance. The principles of sustainable development – as set out in *PPS 1* – require LPAs to come to a balanced judgement of the weight to be given to each of the four strands of sustainable development, and not to give economic considerations priority as suggested here.

Ancient Monuments and Archaeological Sites

8. *Paragraphs 83-84:* Having now removed the Crown’s immunity from the planning Acts (which include the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning (Hazardous Substances) Act 1990), the Government has left the somewhat anomalous position of retaining immunity from the provisions of the Ancient Monuments and Archaeological Sites Act 1979. This loophole should be closed as soon as possible.
9. Bearing in mind the potential harm to heritage sites, the requirement simply to notify the Department for Culture, Media and Sport of proposed development that would affect a protected site is deemed inadequate. In practice, is it not possible for the LPA to consult DCMS and English Heritage, on receipt of a relevant planning

application, and to reflect any views in negotiations on the detail of the scheme or in planning conditions, as appropriate?

If any of the Institute's comments require clarification or elaboration, please do not hesitate to contact me.

Yours sincerely

David Barraclough
Planning Policy Manager