



## Planning and Land Use

Obtaining consent for your project can be a minefield of political pressure and legal risk. Our focus is always on helping our clients to successfully negotiate that minefield efficiently and effectively.

Preparation is essential to achieving this and making sure that your application is robust before it is submitted is critical. Getting the application right maximizes the possibility of securing consent quickly, and minimizes the risk of a successful legal challenge.

That is why we work closely with your internal and external teams from the outset of a project to ensure that the application and supporting documentation is able to withstand the scrutiny of decision-makers, objectors and the courts. This upfront investment of our time leads to quicker determinations and fewer legal challenges.

Our dedicated team of planning solicitors and barristers act for clients seeking:

- Planning permission
- Development consent orders
- Compulsory purchase orders
- Transport and works act orders.

We act for both the private and public sectors, including developers, infrastructure providers, government departments and local authorities. Our clients trust us to lead their most politically sensitive and legally contentious projects.

Optimum results are more likely with local knowledge and, to that end, we have a network of eight offices located in the UK's main commercial centres. This extensive coverage enables us to draw upon local experience and long-standing contacts with local stakeholders and decision-makers. Our international offices have the greatest global range and scope of any law firm, which enables us to draw on experience outside the UK as well.

### CAPABILITES

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- Development and regeneration
- Energy and infrastructure
- Compulsory purchase and compensation
- Litigation

### Development and regeneration

Getting an application right from the outset is critical to securing legally robust planning permission quickly and effectively. Our involvement therefore begins at the drafting stage; undertaking legal audits and reviews of key documentation, including environmental statements, appropriate assessments, planning statements and design and access statements. While the aim is to secure permission

from the local planning authority, we ensure that your application is appeal - ready from the outset. Not only does this maximize the prospects of securing permission in the first place, but it also gives you the comfort of knowing that your proposals are capable of withstanding appeal scrutiny if necessary.

Once the application is submitted we work with your planning consultants to successfully navigate the decision-making process. We also draft and negotiate any planning obligations and infrastructure agreements that may be required.

While our focus is always on avoiding an appeal, we are experienced in appeals and our team of solicitors and barristers is able to advise on all aspects of the process. We regularly provide advocacy services, but we are equally comfortable working with outside counsel if that is our client's preference.

## Energy and infrastructure

Our energy and infrastructure clients rely on us to advise them on the most effective, efficient, and sometimes novel, means of securing consent. We can assist in evaluating the merits and applicability of the different regimes, negotiating side agreements and analysing the political and policy spectrum within which the project must be delivered.

Having identified the best regime for the project, we work with our clients to deliver a robust application that will secure consent quickly and efficiently. This involves us working closely with your design team to ensure that the justification for the project is sound and that the environmental assessments and other supporting material are legally robust.

Once an application has been made, we work closely with our clients and their teams to ensure that the process is as efficient and effective as possible. Where hearings are involved, we have solicitors and barristers within our team who can appear but we are equally happy working with outside counsel if that is our client's preference.

## Compulsory purchase and compensation

We have promoted some of the largest and most complicated compulsory purchase orders in the UK; acting on behalf of acquiring authorities as well as the developers and funders who often sit behind them.

Our experienced team offers a cradle-to-grave service, advising on the case for and making of the order, negotiating with landowners and objectors, securing confirmation of the order and implementing it. We also advise on compensation claims and have significant experience of Tribunal proceedings, blight notices, advance payments and other key areas of dispute.

## Litigation

We are pleased to say that very few consents that we have advised on are challenged in the courts and none have ever been successfully challenged; nonetheless, we are experienced in handling planning litigation. Our experienced team of solicitors and barristers have experience of all UK courts; from the Scottish Court of Sessions and the High Court of England and Wales through to the UK Supreme Court, where we have been involved with some of the leading planning related cases of recent years.

We have worked with many leading planning QCs to ensure that our client's objectives are achieved, whether that is defending a consent or challenging a decision that is adverse to their interests.

## EXPERIENCE

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- Development and regeneration
- Energy and infrastructure
- Compulsory purchase and compensation
- Litigation

## Development and regeneration

- Advising Treasury Holdings UK on obtaining planning permission and listed building consent for its mixed use redevelopment of Battersea Power Station, a 40-acre development that has been critical to the transformation of the Nine Elms Opportunity Area. Advice given was on policy application and improvement, planning strategy, environmental impact assessment (EIA) (including

cumulative impact), the structure of the application, consultation, other consents including those from the highway authority and Port of London Authority, interface with the Northern Line Extension, application documents (the DAS, Design Code and retail impact assessment) and planning conditions and obligations.

- Acting for affordable housing specialist provider Places for People in the negotiation and drafting of a complex Section 75 Agreement with The City of Edinburgh Council regarding the delivery of a large city centre housing development involving mid-market rented units funded by means of the Scottish Government's National Housing Trust Initiative.
- Advising Argent LLP on its £500 million office-led regeneration of Paradise Circus to provide 1.5m sq ft of new office space, new retail and leisure units and a hotel, including advising on a certificate of immunity from listing from the Secretary of State for the iconic Birmingham Central Library in the face of a recommendation by English Heritage that the building be listed. Our advice also included the drafting and negotiation of the complicated planning obligation and highways agreements and strategic advice on the EIA and planning application, including the timing of the development and its relationship to the delivery of city-wide infrastructure.
- Advising the West Midlands Pension Fund at an appeal against the refusal of planning permission for an urban extension in the North East to provide 1,000 homes, a hotel and new commercial space, including advising on the planning obligation and EIA.

## Energy and infrastructure

- Advising Ineos Group in their successful application to the Oil and Gas Authority under the 14th Onshore Licensing Round for 21 petroleum exploration and development licences, including drafting the section dealing with the UK regulatory framework.
- Advising Highways England in respect of the promotion of a DCO for its largest scheme - the M4 Smart Motorway Scheme, a 52km linear project. Advising on all aspects of the project including EIA, compulsory acquisition, drafting of the DCO, protective provisions and interface agreements and representation at the hearings.

## Compulsory purchase and compensation

- Advising Cheshire West and Chester Council in connection with the major strategic town centre regeneration programme known as Chester Northgate. The scheme requires site assembly by CPO, planning and listed building consent and highway Stopping Up Orders in order to facilitate the construction of a significant range of new retail, including a department store, leisure offer including restaurants, cafes and a multi-screen cinema, and housing.
- Advising Newham Council in relation to the Royal Albert Dock development including on CIL, restrictions on imposition of planning obligations and conditions, draft planning conditions and drafting and negotiating the planning agreement which focused heavily on affordable housing.
- Representing the National Grid in relation to Transport for Greater Manchester's Transport and Works Act Order Application for the Trafford Park Tram Extension, including negotiating the protective provisions and interface agreement in connection with the crossing of a high pressure gas pipeline and other assets.

## Litigation

- Advising Hopkins Homes in the leading case of Suffolk Coastal District Council v Hopkins Homes and the Secretary of State on five-year land supply and the meaning of paragraph 49 of the NPPF. We appeared at the planning inquiry, successfully challenged the refusal of planning permission in the High Court and defended against Suffolk Coastal District Council's appeal against that decision in the Court of Appeal. The Council's final appeal will be heard by the Supreme Court in 2017.

## INSIGHTS

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### Publications

#### Certificates of Appropriate Alternative Development

7 June 2022

As explained in our Compulsory Purchase – An introduction article, potential development value is an important factor to consider when looking to determine compensation for land that is compulsorily acquired.

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### **Sealed offers and the assessment of CPO Costs in the Upper Tribunal**

2 June 2022

The Upper Tribunal (Lands Chamber) has a general discretion to award costs when considering a claim for compensation for the compulsory purchase of land. Where a claimant is awarded compensation, the Tribunal will normally order the acquiring authority to pay the claimant's costs.

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### **Planning blight and compensation: who qualifies and what do claimants need to show?**

31 May 2022

There are certain circumstances where property owners – residential, commercial and agricultural – can require public sector bodies and certain private sector project promoters (together referred to in the legislation as “appropriate authorities”) to purchase their land.

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### **Powers of compulsory acquisition under the Planning Act 2008**

19 May 2022

In this article we set out the key conditions and considerations for the inclusion of compulsory acquisition powers in a DCO, focusing on the tests under the Planning Act, the considerations under the Guidance (Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land, 2013) and Human Rights factors.

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### **Compulsory Purchase – An introduction**

17 May 2022

Compulsory purchase is a legal mechanism which enables certain bodies, including local planning authorities, Ministers of State and other public bodies, as well as statutory undertakers (acquiring authorities) to acquire land without first obtaining the consent of the landowner.

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### **First Homes**

3 May 2022

Given everything else that has been going on in the world since the Government's announcement in May 2021, First Homes have largely flown under the radar. Yet here we are almost a year on and, with all the key dates having been and gone, First Homes are very much upon us and need to be in the forefront of our minds.

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### **Offsite provision for biodiversity net gain in England and Wales**

8 March 2022

This article will consider how BNG can be delivered via offsite provision, and the proposed system of biodiversity credits that developers will be able to purchase to fulfil some or all of the BNG requirement for their site from a third-party provider.

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## **Biodiversity Net Gain – How is it measured?**

28 February 2022

As set out in our previous articles on Biodiversity Net Gain (BNG), under the Planning Act 2008 and the Town and Country Planning Act 1990, the Environment Act 2021 was enshrined in UK legislation in November 2021.

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## **Environment Act 2021**

21 February 2022

Developers need to be aware of the provisions relating to Biodiversity Net Gain (BNG) contained in the Environment Act 2021 (Act), which was given Royal Assent on 9 November 2021.

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## **Biodiversity Net Gain and nationally significant infrastructure projects**

14 February 2022

A summary, highlighting points of interest, of the elements of the Environment Act 2021 which secure the provision of biodiversity net gain, including the deemed planning condition for developments pursuant to the Town and Country Planning Act and the requirement out for infrastructure projects consented pursuant to the Planning Act 2008.

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## **BEIS publishes draft energy national policy statements and launches consultation until 29 November 2021**

14 October 2021

DLA Piper's summary of the UK Government's revised national policy statements relating to nationally significant energy projects in England and a reminder to all investors, developers and operators of energy infrastructure to consider responding to the consultation, to shape future consenting policies and emerging technologies.

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## **Building faster, better and greener - accelerating and improving delivery**

5 January 2021

The latest part in this series of publications on the government's long awaited National Infrastructure Strategy 2020 will consider "Chapter 5 – building faster, better and greener", which builds on the government's infrastructure reform programme, Project Speed.

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## **Supporting private investment**

21 December 2020

The UK is an attractive destination for private investment in infrastructure, with the Government estimating that over GBP200 billion has been invested in the last decade in the water and energy sectors alone. Chapter 4 of the National Infrastructure Strategy looks at the importance of private investment to funding new infrastructure.

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## **Decarbonising the economy and adapting to climate change**

9 December 2020

Chapter three of the NIS stems from the central objective of meeting the UK's net zero emissions target by 2050. The proposed measures include both the deployment of existing technology and the development of newer technologies, and are closely related to the Prime Minister's Ten Point Plan for a Green Industrial Revolution.

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### **An introduction and summary of the key points**

2 December 2020

An introduction and summary of the key points in the National Infrastructure Strategy, the UK government's recently published plan to "build back better, to create world-class infrastructure across the whole UK, and to transform people's lives for decades to come."

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### **Planning and Environment Journal - Issue 5**

3 November 2020

#### **PLANNING AND ENVIRONMENT JOURNAL**

Welcome to the fifth edition of DLA Piper's Planning and Environment Journal where our lawyers share their experience and knowledge of zoning and environmental issues in various jurisdictions. This edition is dedicated to logistics development in France and Hong Kong.

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### **Use Classes and Permitted Development Rights: Judicial Review uncertainty**

22 September 2020

On 21 July 2020 the Secretary of State for Housing Communities and Local Government laid three statutory instruments (SIs) before Parliament.

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### **Scope of Scottish Planning Obligation Appeals**

19 August 2020

The Supreme Court decision in *Aberdeen City and Shire Strategic Development Planning Authority v Elsick Development Company Limited* raised a number of issues on scope of planning obligations in terms of section 75 of the Town and Planning (Scotland) Act 1997.

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### **Planning and Environment Journal - Issue 4**

14 July 2020

#### **PLANNING AND ENVIRONMENT JOURNAL**

Welcome to the fourth edition of DLA Piper's Planning and Environment Journal where our lawyers share their experience and knowledge of zoning and environmental issues in various jurisdictions. This edition is dedicated to regulation of building permits in Japan and Belgium.

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## **NEWS**

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### **DLA Piper appoints new partner to UK Real Estate and Planning team**

10 March 2022

DLA Piper has strengthened its UK Real Estate and Planning team with the appointment of Sophie Stewart as a partner in its North West Office.

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