



# Planning Law & Policy

**Rollit  
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SOLICITORS

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## The Human Rights Act

The new Human Rights Act came into force on 2 October 2000 and is likely to have a serious impact on planning law.

The Human Rights Act will apply to public authorities and will protect the general public from suffering as a result of their actions. Therefore Councils acting in their capacity as Local Planning Authorities, together with the Planning Inspectorate, will have to adhere to the provisions of the Act whilst carrying out their duties.

Ways in which this legislation may affect the planning system include:

1. A possibility that the six months time limit for bringing appeals and the usual six weeks time scale for bringing judicial review proceedings may fall foul of the Act by being seen as unfair - for example if the potential appellant missed the deadline because he had been unaware of the decision.
2. The Act provides that everyone should be entitled to a fair trial and to give oral evidence. Objectors to planning applications cannot currently speak at Planning Committee meetings. It seems likely that following 2 October they will have to be permitted to do so.
3. The Act includes the right to a hearing by an independent and impartial tribunal. A Local Planning Authority determining applications (as it is obliged to do) in accordance with the provisions of its own development plan is neither independent nor impartial. Likewise it can be argued that the Planning Inspectorate will fall foul of the new legislation as it is directed by the Secretary of State to determine appeals in accordance with local development plans.

We will have to wait and see exactly what affect this legislation has on the planning system.

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## Planning Appeals - New Rules

***New legislation came into force on 1 August 2000 which will affect the procedures governing planning appeals.***

In brief, the effect of the new regulations is as follows:

### ***Decision Notices***

In an attempt to prevent appeals being lodged which lack any merit, all decision notices issued after 1 August 2000, which relate to a refusal or a conditional grant, must state full reasons for the decision with reference to the relevant local plan proposals and policies. Some Local Planning Authorities already do this as a matter of course, but delays in issue of decision notices may result until other LPAs become used to the extra work which is now involved.

### ***Appeals by written representations***

A new timetable for production and exchange of evidence and comments thereon will apply to all appeals issued after 1 August 2000. The new rules do not apply to existing appeals.

This timetable is tighter and stricter than previously. The Inspector will be at liberty to determine an appeal having regard only to the evidence which has been received within the prescribed time limits.

### ***Hearings***

Previously Hearings were operated under the guidance of a code of practice. The new legislation puts the (now stricter) procedure and timetable on a statutory footing. As before cross examination is not permitted, but the Inspector has to discuss whether an Inquiry would be more appropriate if he considers that a thorough examination of the main issues is not possible in the forum of a Hearing. Again the new rules only apply to appeals made after 1 August 2000.

### ***Public Inquiry***

As well as a tighter timetable, the new rules will affect Inquiries in other ways. At the commencement of any Inquiry held in relation to an appeal made after 1 August 2000, the Inspector will have identify the main issues for consideration. To save time, the Inspector will be at liberty to refuse to hear any evidence, cross-examination or representations which he considers repetitious. Such evidence may be submitted in writing however. In the case of lengthy Inquiries (more than eight days) any party who makes closing submissions will have to provide the Inspector with a copy of them in writing.



# *Environmental Law & Policy*

# Rollit Farrell Bladon

S O L I C I T O R S

## Contaminated Land Regime

The new legal regime to deal with contaminated land came into force on 1 April 2000. Its purpose is to provide a system for remediation of land contaminated by historical activities. Important features of the regime include:

- remediation is only required when reasonable having regard to cost and the seriousness of harm
- primary responsibility is with the polluter although if he cannot be traced innocent owners or occupiers may be liable
- only heavily contaminated sites are likely to be caught
- the regime only applies to historic contamination and not contamination covered by other existing pollution controls e.g. IPPC, waste management
- the acceptability of harm is judged in relation to current uses and the level of clean-up is judged in relation to such uses
- liability has no limit in time
- liability is strict, not depending on culpability, and retrospective

All landowners and developers may be affected and therefore great care needs to be taken in respect of purchases of land.

## Landfill Tax Credits

Since the advent of landfill tax in October 1996 a total of £224 million has been claimed in credits. This represents 73% of the maximum available credits valued at £305 million.

### INFORMATION

*If you have any queries on any aspect of  
Planning or Environmental law please contact:*

**Steve Hawkins at Hull on (01482) 323239**

This bulletin is for the use of clients and will be supplied to others on request. It is for general guidance only. It provides useful information in a concise form.

Action should not be taken without obtaining specific advice.

*The law is stated as at 1 October 2000.*

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### ENVIRONMENTAL CONCERNS

Environmental Groups last month called for caution at a public examination of the draft regional planning guidance (RPG) for Yorkshire and the Humber.

The RPG in its current form states that land adjacent to the Humber estuary should be reserved for employment uses. Yorkshire Forward are supporting this with plans for a Humber Trade Zone.

However groups including the RSPB and English Nature have raised concerns about these proposals arguing that new development would lead to loss of wildlife habitats. They are also concerned about the possibility of new buildings being subject to flooding owing to rising sea levels.

### NOISE DIRECTIVE

The EC has approved a new Directive which will govern noise levels for over 60 types of plant and outdoor equipment. The responsibility for ensuring that such machinery meets noise emission levels and attaching appropriate labelling will rest with manufacturers or their distributors operating within the EC.

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