



Coalition response to RSS ruling sparks confusion

Sarah Townsend, Regen.net, 11 November 2010

The coalition Government has written to the heads of local planning authorities telling them that they should still take into account the forthcoming abolition of local housing targets when making planning decisions.

The letter was sent after the High Court ruled that communities secretary Eric Pickles' decision in May to scrap regional spatial strategies (RSSs) with immediate effect was unlawful.

Yesterday's judgement was the culmination of a case brought in August by housebuilder Cala Homes, which applied for a judicial review into Pickles' decision after he wrote to planning authorities in May informing them of the Government's intention to scrap RSSs.

Cala Homes argued that the communities secretary acted outside his powers by removing a fundamental part of the planning system and failing to put transitional arrangements in place.

Planning experts say that the effect of yesterday's decision is to re-establish regional strategies, for the time being, as part of the wider local development plan.

But in a letter to local planning authorities, Steve Quarterman, chief planner at the Department for Communities and Local Government, said: "The secretary of state wrote to planning authorities on 27 May informing them of the Government's intention to abolish regional strategies in the [forthcoming] Localism Bill.

"I am attaching the proposed clause of the Localism Bill that will enact that commitment. The bill is expected to begin its passage through parliament before Christmas, and will return decision-making powers in housing and planning to local authorities.

"Local planning authorities and the Planning Inspectorate should still have regard to the letter of the 27 May in any decisions they are currently taking."

The Government's response to yesterday's judgement has sparked confusion among housing and planning practitioners as to the framework within which they should consider new development proposals.

Matthew Spry, director of planning practice Nathaniel Lichfield, said: "This judgement changes everything but also changes nothing. It delivers a potentially significant impact in the short term but, looking beyond to the next six to nine months, represents only a temporary obstruction to the future abolition of the regional spatial strategies through the Localism Bill.

"It is clear that the ruling represents a policy delay rather than a policy U-turn."

And Liz Peace, chief executive of the British Property Federation (BPF), said: "In the long term this ruling will change little. It perhaps provides a narrow window of opportunity for some housebuilders to challenge local authority decisions to reject housing schemes, while highlighting the need for the government to work hand-in-hand with the property industry.

"However, with the Government still insisting that their intention to remove regional strategies should continue to be taken into account by local authorities as a material consideration, few local authorities are likely to feel compelled to give the go-ahead to schemes that they do not want.

"The ruling is unlikely to end the current confusion within local authorities."

But Stuart Andrews, head of planning at law firm Eversheds, said: "Local government minister Bob Neill has already said that the judgement 'changes very little' [in a statement issued yesterday]. This is because the Government is due to introduce the Localism Bill into parliament on 22 November, which will provide the statutory basis for the scrapping of regional housing targets.

"However, this misses the point. We believe it will take a great deal of time to bring this legislation onto the statute books and even longer for local authorities to act on its provisions. In the interim, the reintroduction of the regional strategies will ensure that their content will guide and direct development under the statutory requirements of Section 38 of the Town and Country Planning Act 1990 and no amount of Government statements or policy making can unsettle that position.

"The best the Government can do will be to play down the function of regional guidance, but even this approach cannot overcome those circumstances where regional policy identifies a shortfall of housing land supply and a proposed scheme will remedy that position."