APP 11

Planning control

10. Over the past 60 years there has been ever-increasing recognition of the need to control the use and development of land so as to prevent inappropriate development and protect the environment. This is, inevitably, a sensitive process, since it constrains the freedom of private owners to use their own land as they wish. But it is a very important process, since control, appropriately and firmly exercised, enures to the benefit of the whole community.

The cornerstone of this regime, regulated by sections 55-106B in Part III of the Act, is the requirement in section 57(1) that planning permission be obtained for the carrying out of any development of land as defined in section 55. Applications are made to, and in the ordinary way determined in the first instance by, local planning authorities, which are local bodies democratically-elected and accountable. The responsibility of the local community for managing its own environment is integral to the system. But the local planning authority's decision is not final. An appeal against its decision lies to the Secretary of State, on the merits, which will be investigated by an expert, independent inspector empowered to hold an inquiry at which evidence may be received and competing interests heard before advice is tendered to the Secretary of State. The final decision on the merits rests with the Secretary of State, a political office-holder answerable to Parliament. The courts have no statutory role in the granting or refusing of planning permission unless, on purely legal grounds, it is sought to challenge an order made by the local planning authority or the Secretary of State: in such event section 288 of the Act grants a right of application to the High Court. In addition, there exists the general supervisory jurisdiction of the High Court, which may in this field as in others be invoked to control decisions which are made in bad faith, or perversely, or unfairly or otherwise unlawfully.

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