

Planning context

Relationship with Planning legislation

A 'traditional' description of where controls under the Town and Country Planning Act 1990 sit amongst the wider raft of other legislation would read as follows: the Town and Country Planning Act controls the appearance of buildings and land and the uses to which they are put; the Building Regulations ensure buildings are safe and fit for purpose; the Party Wall Act safeguards the interests of adjoining owners; the Environmental Protection Act and Control of Pollution Act protect the wider public and the environment from a range of harms, and the Highways Act ensures the efficient and safe use of roads and highways.

This is an oversimplified context as there are other important pieces of legislation too, but it serves to illustrate the complement of legislation and the separate roles that each piece of primary legislation has. The courts have made it very clear that authorities implementing controls under one piece of legislation should not attempt to emulate, influence, or over-write, controls laid down under other legislation; attempting to expand control beyond the proper remit of a particular Act would be 'ultra-vires'.

There is an understandable perception amongst many members of the public and other observers that many issues almost appear to fall into gaps between legislation, or are not dealt with adequately by one or another piece of legislation. It may seem attractive to both observers or decision makers to attempt to bring matters under the planning 'umbrella' that should not properly be under there at all, but the courts will not tolerate this. The key must be to ensure that the powers, and efforts, under each piece of legislation are taken as far as they reasonably can go.

Planning powers, for example the ability to impose Conditions on a planning permission, have their limitations (as set out in government Circular 11/95 for those who wish to explore further). Nevertheless, it remains the case that the planning stage of a development is generally the first in a long time line, and the more information that can be brought into the public arena at the earliest possible stage, the better for all involved.

If (i) requirements at the Registration stage of a planning application are extensive, (ii) Conditions attached to planning permissions imposed carefully and rigorously, and (iii) Informatives on planning permissions used wisely to draw applicants attention to key areas of concern or other key legislation or controls, then the planning system can contribute a great deal to assist the implementation of controls under other legislation in later stages of a development.

The purpose of the '**Advice for builders**' is to ensure that all the parts of the development process, and the controls that operate to safeguard the public interest, are brought as seamlessly together as possible. As the planning control system is normally the first system to become involved in the process of development, with actions under the Party Wall Acts and Building Regulations generally following after planning processes have commenced, the planning stage should play a crucial role in drawing as much detailed information into the public arena at possible, at the earliest stage.