

**P.E.B.A.
The Specialist Bar Association for Planning,
Environment and Local Government**

Dear Colleague

OCTOBER 2016 Newsletter

1. Our last newsletter was produced in December 2015. This newsletter summarises PEBA's activities since then.

Future Event – Date for the diary

2. **On 27 October 2016 Ben Linscott (Acting Head of Inspectors and Group Manager (Planning) at PINS will be speaking** on "The work of the Planning Inspectorate-planning now and for the future." The talk will be chaired by Andrew Tait QC at FTB at 6.30 pm. This and our other CPD events have been arranged by Asitha Ranatunga.
3. We continue to be interested in hearing about any issues with listings in the Planning Court or with appeals before the Planning Inspectorate. For instance, the impression now is that the concerns about hearings taking the place of inquiries have quietened down. Please also note that the Administrative Court has been produced a new 'Judicial Review Guide 2016'.

Committee membership

4. At the AGM in July 2016, Morag Ellis QC stood down from the chairmanship of PEBA after 4 years, having previously served as vice-chairman from 2008 to 2012. We are hugely grateful to Morag for all that she has done for the Association. Martin Edwards also retired as a committee member and we thank him too for his contribution.
5. The new members of the Committee are Victoria Hutton and Tim Mould QC who were elected and co-opted respectively in July 2016. Hashi Mohamed, previously a co-opted committee member, became an elected member in July and Andrew Tait QC and Paul Brown QC were elected as chairman and vice-chairman respectively.

Consultation responses

6. Please let us know if you become aware of any consultation documents to which you think PEBA could usefully respond.
7. We have responded to the following consultations (with the principal drafter of the response in brackets):
 - (i) January 2016: Irish Planning Board's review of the Irish planning system chaired by Gregory Jones QC (Paul Tucker QC)
 - (ii) March 2016: the Treasury's consultation on the role and scope of the National Infrastructure Commission (Andrew Tait QC)

- (iii) October 2016: DCLG's consultation on reforming business rates appeals (Richard Glover QC, Chris Lewsley and Cain Ormondroyd)
- 8. We will soon be responding to the Law Commission's scoping paper on Planning Law in Wales.
- 9. Paul Brown QC has in recent years acted as our consultation co-ordinator. Following his election as vice-chairman, the role has passed to Tim Mould QC.

Events

- 10. The committee met on 12 February, 25 April, 13 June and 19 September 2016.
- 11. Some of the principal events are set out below:
 - (i) 12 February: PEBA dinner at Inner Temple, organised by Richard Ground QC.
 - (ii) 6 May: the Annual Conference at Hogan Lovells. There were record levels of attendance this year. The conference was organised by Simon Bird QC and CPT and the speakers were drawn from across the Planning Bar. The Keynote Address was given by Mr Justice Dove. The conference programme is copied at the end of this Newsletter.
 - (iii) 10 May: Meeting with Briggs LJ on his Civil Court Structure Review; PEBA was represented by Paul Brown QC.
 - (iv) 12 July : The first substantive meeting of the Planning Court Users Group took place, chaired by Patterson J with Cranston J. PEBA was represented by Andrew Tait QC, Paul Brown QC and Tim Mould QC. Future meetings will be held on a 6 monthly basis at which PEBA will be represented by Tim Mould. Several detailed points on filing, listing, linked challenges and directions were discussed. Given concerns expressed at the meeting about the time that can be taken to get cases before the Court of Appeal, it has been agreed that a representative of the Court of Appeal will attend future PCUG meetings.
 - (v) 22 July: PEBA AGM.
 - (vi) 16 September: Welsh PINS stakeholder meeting. PEBA was represented by Morag Ellis QC.
 - (vii) 4 October : The inaugural meeting of the HMCTS's Tribunal Professional Engagement Group. PEBA was represented by Hugh Flanagan. A programme of reform to tribunals is planned over the next six years, with change proposed particularly in respect of mediation (more of it), case officers (more responsibility), virtual hearings (greater use), and panel composition (greater flexibility and cutting down the numbers on a panel where possible). The Group will meet quarterly and take informal soundings from practitioners / professional associations and other interested parties, alongside more formal consultation procedures.

- (viii) 6 October: joint PEBA/UKELA seminar on Housing Growth and the Environment at Pinsent Masons. Chaired by Patterson J, the PEBA speakers were Richard Harwood QC and Will Upton.
12. At the various meetings of the Bar Council throughout the year, PEBA has been represented by Celina Colquhoun.
13. The 2017 Annual Conference will be held on 5th May 2017. To give you a flavour of what to expect, please see the conference programme from 2016!
14. **Recorder competition.** PEBA was invited by the Chancery Bar Association to attend a meeting on 11 October addressed by Burnett LJ on applying to be a Recorder. Some PEBA members have expressed concerns about the operation of the current system. Simon Bird QC attended on behalf of PEBA.
15. It was explained at the meeting that a structural change has been made for 2017. The first online qualifying test will be concerned only with situational judgment and critical analysis, with no need for self-assessment at this stage. After that initial sift, the second online test is directed at situational judgment, requiring a written narrative. This second stage will include self-assessment and referees will be required. There will then be a telephone assessment, involving an analysis of a piece of work and questions conducted by a judge, in order to reduce the pool further. Having started with perhaps 1200 applicants this will have reduced the pool to 200, who will go forward to a competency-based interview and role play in order to arrive at the required 100 or so appointments. At no stage of the process will there be a jurisdictional element although applicants will be expected to be able to explain why they wish to sit in either jurisdiction.

Diversity

16. We have established a connection with two organisations working in the field of raising awareness of the Bar as a profession generally – and the Planning Bar in particular – to people from disadvantaged backgrounds. The [BLD Foundation](#) and the [NCCL](#) are two organisations to whom we hope to provide access to barristers at the Planning Bar who are willing to give up their precious time to assist in this worthwhile endeavour.
17. This will be coordinated in the first instance on behalf of PEBA Assistant Secretary Hashi Mohamed of No5 Chambers, and also coordinated with the specific organisation with which the individual barrister wishes to assist and work alongside.
18. If you're interested, please contact Hashi directly; Hm@no5.com
19. A mentoring scheme has also been established (please see the PEBA website) and has already been put to use.

**PEBA Annual Conference:
2011-2016 A Quinquennial Review**

“However beautiful the strategy you should occasionally look at the results”
Sir Winston Churchill; Friday 6th May 2016, Hogan Lovells LLP, London

Programme

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| 09.00 | Registration and Refreshments |
| 09.30 | Welcome and Introduction by Conference Chairman <i>Morag Ellis QC, Chairman of PEBA, Francis Taylor Building</i> |
| 09.45 | Keynote Address <i>Mr Justice Dove</i> |
| 10.00 | The NPPF and PPG – their strengths, weaknesses and scope for improvement <i>Paul Brown QC, Landmark Chambers</i> |
| 10.40 | Neighbourhood Planning – a sword or a shield? <i>Richard Harwood QC, 39 Essex Street</i> <i>Victoria Hutton, 39 Essex Street</i> |
| 11.20 | Refreshments |
| 11.50 | National Infrastructure Projects – progress and lessons learned <i>Hereward Phillpot QC, Francis Taylor Building</i> <i>Mark Westmoreland Smith, Francis Taylor Building</i> |
| 12.30 | Lunch |
| 13.30 | The Planning Court: Update <i>Martin Cowling (Planning Court Lawyer), Dove J and Gilbert J</i> |
| 14.00 | Appeal Decision Review <i>Hashi Mohamed, No.5 Chambers</i> <i>Giles Cannock, Kings Chambers</i> <i>Nicholas Ostrowski, 6 Pump Court</i> |
| 14.45 | Strategic Planning and the Housing and Planning Bill <i>Thomas Cosgrove, Cornerstone Barristers</i> <i>Clare Parry, Cornerstone Barristers</i> |
| 15.25 | Case Law Update <i>Daniel Kolinsky QC, Landmark Chambers</i> |
| 16.10 | Conference Close |