Planning Permission & Environmental Impact
Policy & Reality
Underground Coal Gasification

Graham Stock, Drivers Jonas Deloitte
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Introduction

- Planning Systems vary in detail but principles of operation are consistent
- Physical, Social & Environmental considerations
- UCG operations are universal
- Planning is a risk – mitigation required
- UK / England; International angles
Drivers Jonas Deloitte

- Market leading property, planning and regeneration advisors
- Now part of Deloitte, the UK’s leading business advisory organisation
- Unparalleled market understanding and complete client solutions
- Highly experienced Partner-led core teams across the Country
- 1,000+ professionals providing comprehensive suite of property, transaction, advisory and planning related services
- One of UK’s largest Planning consultancies
- Specialist skills in energy, sustainability, CPO, project management and development services

1725
Valuation work for new canals

1894
Drivers & Jonas Co
Crown work - William Driver ‘Surveyor to the Crown Estate’ 1790s - 1821

Main clients: large landowners

2010
Merger with Deloitte to create…
<table>
<thead>
<tr>
<th>Strategy &amp; Finance</th>
<th>Construction Advisory</th>
<th>Planning &amp; Development</th>
<th>Professional Services</th>
<th>Transactions</th>
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</thead>
<tbody>
<tr>
<td><strong>Occupier Advisory</strong> – helping to align every aspect of a client’s occupied property portfolios to core business objectives.</td>
<td><strong>Construction Project Management</strong> – the management of large and complex projects.</td>
<td><strong>Development Land Sales and Purchases</strong> – tailored strategies in the full range of disposals and acquisitions.</td>
<td><strong>Corporate Accounts Valuation</strong> – valuations for financial statements in line with the Financial Reporting Standards.</td>
<td><strong>Acquisitions</strong> – acquiring the right space (freehold or leasehold) and agreeing the best possible value.</td>
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<td><strong>Distressed Situations</strong> – advice to financial stakeholders, lenders and administrators on the strategy for, and subsequent implementation of, realising best value from distressed assets.</td>
<td><strong>Planned Maintenance and Condition Surveys</strong> – surveying property condition and preparing planned maintenance programmes.</td>
<td><strong>Planning Applications and Appeals</strong> – preparation and submission of planning applications and appeals.</td>
<td><strong>Business Rates</strong> – advising on all rating matters to reduce costs on both standard and more unusual properties.</td>
<td><strong>Disposals (lettings and sales)</strong> – advising our clients on the most appropriately commercial method of sale/lease.</td>
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<td><strong>Construction Advisory</strong> – working with clients to ensure construction and property CapEx projects deliver anticipated benefits.</td>
<td><strong>Neighbourly Matters</strong> – assisting developers with planning permission regarding partition walls and daylighting.</td>
<td><strong>Regeneration Services</strong> – provision of economic development and urban regeneration advice.</td>
<td><strong>Property and Asset Management</strong> – from estate strategy to due diligence.</td>
<td><strong>Investment Sales</strong> – advising on property disposals and implementing the appropriate marketing campaign.</td>
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<td><strong>Transaction Support</strong> – specialist technical and financial advice to clients around any aspect of property or construction assets within the context of transactions, M&amp;A, DD and PMI.</td>
<td><strong>Landlord and Tenant</strong> – advising on the terms and obligations of a lease.</td>
<td><strong>Compulsory Purchase and Compensation</strong> – advising acquiring authorities and affected landowners in compulsory purchases.</td>
<td><strong>Rent Reviews</strong></td>
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<td><strong>Due Diligence</strong> – advising on acquisitions, undertaking feasibility studies / option appraisals.</td>
<td><strong>Environment Impact Assessment</strong> – strategic assessment and sustainability appraisal.</td>
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**Drivers Jonas Deloitte**

**Strategy & Finance**

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**Project Management & Building Consulting**

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- **Development Land Sales and Purchases** – tailored strategies in the full range of disposals and acquisitions.

- **Planning Applications and Appeals** – preparation and submission of planning applications and appeals.

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- **Compulsory Purchase and Compensation** – advising acquiring authorities and affected landowners in compulsory purchases.

- **Environment Impact Assessment** – strategic assessment and sustainability appraisal.

**Professional Services**

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**Transactions**

- **Acquisitions** – acquiring the right space (freehold or leasehold) and agreeing the best possible value.

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The UK Planning System
The Planning System

- Plan led system
- Policy is king: setting out what can be built and where.
  - National
  - [Regional tier – recently revoked]
  - Local
The Planning System – England

Policy – Onshore

National – Communities and Local Government

Local – Local Planning Authorities

Process of transition from Unitary Development Plans (UDPs) to Local Development Frameworks (LDFs)

• Planning Policy Statements/Guidance Notes (PPSs & PPGs)
• Minerals Planning Statements (MPSs)
  • Circulars
• National Policy Statements (NPSs)
  • National Planning Framework

• No mention of UCG in the NPSs
The Planning System – England

Policy – Offshore

• Marine Planning System – early stages

• Stage 1: Marine Policy Statement – framework for decisions affecting marine environment

• Stage 2: Emerging Marine Plans – localised

• Led by DEFRA & the Marine Management Organisation

• Sits alongside other legislation (such as Planning System)
The Planning System – Wales

National – Welsh Assembly Government

Local – 25 Local Planning Authorities

Process of transition from Unitary Development Plans (UDPs) to Local Development plans (LDPs)

Development Plans
- Planning Policy Wales & Minerals Planning Policy Wales Supplemented by:
  - Technical Advice Notes (TANs)
  - Minerals Technical Advice Notes (MTANs)
  - Minerals Planning Guidance Notes (MPGNs)
  - Policy Clarification Letters
  - Ministerial Interim Minerals Planning Policy
The Planning System – Scotland

Policy – Onshore

National – Directorate for the Built Environment

Local – Local Planning Authorities

Process of transition from Local & Structure Plans to Local Development Plans (LDPs) & Strategic Development Plans (SDPs)

- National Planning Framework (NPF2)
  - Scottish Planning Policy (SPP)
    - Circulars
    - Planning Advice Notes (PANs)

- No mention of UCG
- Discussion of Carbon Capture & Storage in NPF2
The Planning System – Scotland

Policy – Offshore

• Provides for a national and regional marine plans

• Creates a new single point of licensing for marine works

• Licensing regime procedurally closely follows planning system

• Definition of licensable activities and exemptions from licence.
Planning System

Development Control / Management

- Planning permission is required for most forms of development within England and Wales
- Applications decided taking national and local planning guidance into account

Decision Makers

- Local Planning Authorities (LPAs)/Mineral Planning Authorities (MPAs)
- Decided either by Planning Officers or Planning Committee
- Contentious large scale applications can be “called in” and decided by the Secretary of State for Communities and Local Government.
International Examples
Australia – South Australia and New South Wales

- Different legislation and planning system in each state

- For example:
  - Regional Plans
    - South Australia – Planning Strategy
    - NSW – Strategic Planning
  - Local Plans
    - South Australia – Development Plan
    - NSW – Local Environmental Plans

Common principles in both:
- Community consultation
- Complying v non-complying development
India

- Three tiered – National, State, District
- Planning system initially based on English system
- District Plans
  - Integrated plan taking into account resources (natural/human/financial) and covering activities and schemes
  - Opportunities to influence policy
Botswana

- Planning permission needed for development – Department for Town & Regional Planning
- Applications are similar to England & Wales – forms, plans, neighbourhood consultation
- Appeals mechanism to Minister is available
- Mining operations require a License from the Ministry of Minerals, Energy & Water Resources
- Environmental Impact Assessment
Minerals Planning
# Minerals – Structure of Governance

<table>
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<th>Communities &amp; Local Government Department</th>
<th>Welsh Assembly</th>
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- **Communities & Local Government Department**
- **Welsh Assembly**

| Regional Aggregate Working Parties (RAWPs) e.g. North and South Wales, North West, London, North East |

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<th>Minerals Planning Authorities</th>
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<td><strong>England – Unitary or County Authority level</strong></td>
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<tr>
<td><strong>Wales – Local Planning Authority also deals with minerals planning</strong></td>
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- **Local**
Minerals Policy Statements/Guidance

National Guidance

- English/Welsh policy on minerals and planning issues
- England – Minerals Policy Statements (MPSs)/Minerals Policy Guidance (MPGs)
- Wales – Minerals Technical Advice Notes (MTANs)/Minerals Planning Guidance Notes (MPGNs)
- Mineral Planning Authorities (MPAs) must take national guidance into account in preparing Development Plans
Minerals Plans/Development Frameworks

Local Guidance

- In England MPAs required to prepare Minerals Development Frameworks (MDFs) – provides guidance at local level and identifies sites / safeguarded areas
- Process of transition from Minerals Plans to Minerals Development Frameworks
- In Wales Local Development Plans cover minerals

Site selection

- Minerals can only be worked where they are found – dictated by geological considerations
- Historically onus on landowners/mineral companies to promote sites through Development Plan process
Resources – Energy

- Includes coal, on-shore oil and gas and underground storage of natural gas

- No question of “planning need” or targets, dependent on market conditions

- MPAs to ensure this approach incorporated into Development Plan policies
Planning Applications

- Mining operations – ‘the winning and working of minerals in, on or under land, whether by surface or underground’

- When is a planning application needed?
  - A Section 192 application can be submitted to determine if an application is required

- Pre-Application process:
  - Pre-application consultation of Minerals Planning Authority
  - Environmental Impact Assessment
  - Public consultation?
## Environmental Impact – Assessment Required

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<th>Development Type</th>
<th>Threshold</th>
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<td><strong>Schedule 1</strong></td>
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<tr>
<td>Extraction of petroleum and natural gas for commercial purposes</td>
<td>Where the amount extracted exceeds 500 tonnes per day in the case of petroleum and 500,000 cubic metres per day in the case of gas</td>
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<tr>
<td>Quarries and open-cast mining</td>
<td>Site exceeds 25 ha, or peat extraction where the surface of the site exceeds 150 hectares</td>
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<tr>
<td><strong>Schedule 2</strong></td>
<td></td>
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<tr>
<td>Extractive Industries</td>
<td>(a) – (c) All development. (d) Area of the works exceeds 1 ha or in relation to geothermal / nuclear waste drilling where its within 100 m of controlled waters (e) Area of development exceeds 0.5 ha</td>
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<td>(a) quarries, open-cast mining and peat extraction (unless included in Schedule 1); (b) underground mining; (c) extraction of minerals by fluvial dredging; (d) deep drilling; (e) surface industrial installations for extraction purposes</td>
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<td>Energy Industries e.g. surface storage for fossil fuels</td>
<td>Area of works exceeds 1 hectare New building is within 100 m of controlled waters</td>
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Environmental Impact Assessments

Issues and Topics:

- Ecology and hydrogeology
- Air quality e.g. dust, emissions
- Transport
- Noise and vibrations
- Archaeology

- Visual and landscape
- Agriculture
- Socio-economic issues e.g. employment
- Interactions
- Alternatives

Failure to address these means real local opposition
Importance of Gaining Community Support

• Major projects demand engagement
• Localism Agenda – statutory requirement
• New rights & powers for communities – empowerment
• Unknown technology – perception, fear, emotive – education required
• Legislative requirement & practical sense – reduce risk
# Application Considerations

## Environmental Impacts
- Waterways, surface run off, pollution, dust, noise, local habitats and wildlife

## Local Amenity
- Traffic and road network, nearby residential areas, visual impact

## Local Infrastructure
- Water supplies, pipelines, sewers, power-lines, pylons, highways, railway lines and embankments, airports

## Need for Development
- Need for the particular mineral

## Development Plan
- Site policy allocation, relevant local and national policies

## Protected Areas
- SSSIs, National Parks, AONB, Countryside, Nature Reserves, agricultural land, forestry, archaeology

## General Operations
- Health and safety, site security, traffic, hours of operation, managing impact on local amenity, e.g. noise, dust.

## Life Cycle of Proposal
- Initial soil stripping, phasing, restoration and aftercare

## Perception and Fear
Planning Applications

• Post Submission:
  – Registration / validation of application
  – Consultation including statutory consultees and other relevant bodies
  – Determination Period: 8 weeks or 16 weeks if EIA required. *Longer if IPC*
  – Planning Committee

• Decision
  – Conditions
  – Right to Appeal to Secretary of State (within 6 months)
  – Judicial Review
  – Planning Obligations
Reality

• Process – Policy is King
• Building the case – engagement / public consultation
• Knowledge – the public and decision makers
• Environmental effects
• Tackling all the Permissions
• All in the Planning
Questions