



**COMPLIANCE
WITH PLANNING
CONDITIONS
WHEN ESTATE IN
CHARGE**

The Conveyancing Committee and the Joint Committee of the Law Society/Building Societies have been considering for some time the question of conveyancing practice in relation to evidence of compliance with conditions of Planning Permissions. A particular problem area is the sale of second hand houses where there is not evidence of compliance with financial or other conditions. It has been suggested that solicitors should not concern themselves about compliance with conditions where it was established that the roads and services had been taken in charge by the Planning Authority. The Committee have had discussions with representatives of the County and City Managers Associations and Dublin County Council and accordingly make the following recommendations:

1. Conveyancers dealing with the second or later purchase of residential houses where the roads and service are in charge of the Local Authority should not concern themselves with enquiries as to compliance with financial conditions in a Planning Permission unless they are on notice of some problem.
2. This recommendation applies only to houses forming part of a building estate and built at the same time as the main development. It does not apply to once-off houses or to infill development.
3. There have been instances where houses forming part of a building estate had been built without Planning Permission so this recommendation does not change the obligation on a purchaser's solicitor to see that there is, in fact, Planning Permission for the house and, where appropriate under other recommendations, to seek a certificate from an Architect or Engineer that the house has been built in accordance with the same.
4. The Committee wishes to draw the attention of practitioners to its long standing recommendation that it is unreasonable for solicitors to insist now on being furnished with documentation which it was not the practice to furnish at the time of a previous investigation of title. In particular, where payment of financial contributions and/or levies are being paid by instalments, solicitors should only be concerned with the payment of contributions up to the date of the first purchase of any house.

UPDATE: This practice note has been clarified by the practice note entitled "Compliance with Planning Conditions" published in the Law Society Gazette, July/August 2002 and at page 7.90 hereof.