PLANNING ISSUES IN FRANCE

Planning permission is required in France for any new construction (subject to certain exemptions) or any proposal which changes the architecture of the property, its dimensions, its drainage or the layout of the surrounding area. It is also required for a change of use e.g. conversion of a barn into a dwelling.

Work on an existing building also requires planning permission where it affects the volume of the building or creates supplementary levels.

Certain categories of construction are exempt from a planning permission and are instead subject to a *déclaration préalable* (prior declaration). These are works such as terraces with certain restrictions and the creation of a balcony or veranda, again within certain restrictions on size. A *déclaration préalable* is also required prior to refacing work being carried out, for instance.

The *déclaration préalable* is a simplified system whereby the dossier is completed on a standard form and submitted with appropriate plans. The employment of an architect is not obligatory. The form is filed at the *Mairie* and tacit agreement is reputed to have been given if, following the publicity, the Authorities remain silent for a period of one month. However, for certain buildings, e.g. historic monuments, the period is increased to two months.

If a full planning permission is required, a formal dossier is prepared with full plans and the intervention of an architect is obligatory, unless an individual wishes to construct or modify a construction for their own use, other than agricultural, which the habitable surface area does not exceed 170m² (current rules).

After the planning application is filed with the local *Mairie*, it will again be publicised. The normal period for consideration of the file is two months, but this can be increased for certain types of building, such as those classified as historic monuments. Once planning permission has been obtained, it can still be appealed by third parties within a period of two months from the date of granting of permission. Therefore, definitive permission will take upwards of four months to obtain.

The situation is complex and advice should be taken prior to proceeding. Once the permission is obtained, the building must be commenced within a period of two years. Following completion of the works, a letter must be sent to the *Mairie* confirming that the works have been completed (*déclaration d'achèvement des travaux*) and the *certificat de conformité* (certificate of conformity) is requested which if granted by the *Mairie* will confirm that the works were carried out in accordance with the permission.

Ideally in a purchase contract a condition can be inserted to state that if planning permission for a particular project is not obtained then the purchaser may withdraw. However, this type of clause is not very attractive to a vendor who may have to remarket his property at the end of a lengthy period whilst planning is sought for the appeal period to be passed.

Written by Dawn Alderson, Partner in Russell-Cooke's French Law department.

For further information, please contact:

Dawn Alderson email: aldersond@russell-cooke.co.uk

Marie-Dominique D'hont email: dhontm@russell-cooke.co.uk