

Privatising land use

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The planning system is a prophylactic; a preventative, taxation, development and quality control device. It is no longer used for visioning or planning the future, or capable of promoting fairness, because there has been massive mission creep in favour of its prophylactic role and those who benefit from that. It is a monster because the 1947 Act nationalised land use, which remains within Government control at a very detailed local level through the Use Classes Order, which has its origins not the last century but the 19th.

To achieve anything quickly (relatively speaking), like the Chinese Communist Party, governments have dispensed with inconvenient local democratic processes or deregulated. How else might we have built Canary Wharf or the 2012 Olympics, or regenerated Shoreditch, without enterprise zones, mayoral development corporations, and changes to permitted development?

Boris promises radical reform. Ahead of the new planning White Paper, the best guide we have to what that might entail is perhaps the Policy Exchange's pre-Lockdown paper *Rethinking the Planning System for the 21st Century*, by Jack Airey and Chris Doughty.

In his introduction, Harvard's Edward Glaeser notes that having nationalised land use with the '47 Act, the Government then devolved power to deny new development to 'tiny boroughs and townships'. As Airey and Doughty claim, localities 'manage to game the system to understate local housing needs and limit new construction' - and much else.

You don't need an ivory tower in Harvard, however, to agree with Glaeser that 'capitalism seems to be failing the young' because the system favours 'insider' older homeowners, while younger 'outsider' generations have to surrender a large percentage of their incomes in rent.

The Tories know they need to 'game the system' to deliver more of what young people need. Or hand back power to the Left. Airey and Doughty's 'most revolutionary idea' is to divide land into two primary classes, not hundreds of finely tuned development areas.

One class of land is protected against growth, for historical or environmental reasons. The other class permits use and growth as of right, denationalising use, leaving that to the market to decide, subject to controls about transport access, quality and safety, etc. Local authorities have not been good at micro-managing use. We don't have the homes and offices needed because every scheme is considered in micro-detail, measured against policy, rather than straightforward physical rules about what can and can't be done.

In the case of housing this has transferred wealth from those who have not, to those who have. And how easy do we think it will be to quickly build a new hub office in the suburbs to suit post-Covid 19 working practices? Don't hold your breath for local policy changes.

And why can't local plans that set out local rules be reduced from their indigestible 300 pages to documents of a similar length to today's NPPF, in which the fact of development is not contested but only its form?

What Airey and Doughty fail to tackle is how CIL has been simply bolted onto the existing tax of S106. That has to change. In a system where developers know what they can develop where with certainty, it would be easier to determine and set an efficient, non-negotiable tax to help pay for what society needs. Local planners could decide how it should be spent. But they won't. Politicians will. ■

Planning in London has been published and edited by Brian Waters, Lee Mallett and Paul Finch since 1992

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Don't throw the planning baby out with the bathwater

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A mature response to the Boris Johnson 'Build, build, build' speech might be: 'The planned construction boost is welcome, in terms of both infrastructure and buildings. We await further details on how planning deregulation will chime with the Climate Change Act and our carbon commitments. As with almost anything involving the planning system, the devil will be in the detail. Changes to the use Classes Order had a largely beneficial effect when Mrs Thatcher introduced them, and there is no reason why increased flexibility should not be equally beneficial this time round. Addressing the problem of vacant retail units via easy conversion to homes is a reasonable step in current circumstances. A cautious welcome is appropriate, especially given the boost to spending on much-needed public sector housing.'

It cannot be denied that the planning system as currently constituted is in something of a mess, headed by a man who behaves like a spiv and appears to have no proper understanding of his quasi-judicial role in the appeal system. The appeal system itself is in disarray because of the inevitable backlog of cases as a result of Covid-19 – it seems that the inspectorate can currently handle only two live appeals at a time because of the limited number of their administrative officers who are allowed out of their home-working tasks.

But reviewing the system as a whole, whatever one's sympathies for those paid to do their best to make it work, it is apparent that the relationship between spatial planning, betterment, environmental requirements, building inspection and development control are out of kilter. It seems that as soon as any significant development is proposed, the weight of the system is designed to come up with multiple reasons why things should not happen. It is not so much 'Yes, provided that ...' as 'Absolutely not, unless ...'

Crazy and dishonest taxation of housebuilders, by imposing on them the impossible task of building out a social programme, is aided and abetted by a planning system which requires its practitioners to be viability experts, carbon experts, an expert in predictive sociology and a whizz on aesthetic and construction detail. This is of course impossible, and has led to breeds of specialist consultants forever busy with cut-and-paste 'evidence' which 'proves' that such and such a scheme cannot possibly make money or that the applicant is pulling wool over the local authority's eyes, depending on which side of the table they happen to be sitting that day.

The Boris strategy is to take the logic of Use Classes relaxation and permitted development rights up a notch – let people build what they want or what they think they can sell, subject to Building Regulations not planning. A development control mentality will bridle at this automatically, a good example of professional self-interest trumping what people actually want.

However, however, however ... the Prime Minister knows perfectly well that given free rein, the property industry can do seriously horrible things, as the scandal of some office-to-resi permitted development conversions has shown. Intrusive domestic extensions by regular voters, including multi-level basements, can be deeply anti-social as well as highly profitable. Planning is supposed to be about striking a balance, and this will still be necessary in a world of greater regulatory relaxation.

The message might be: ok, if you are going to allow more as-of-right development, at least make it subject to minimum requirements in respect of space standards – the sort of standards the PM introduced when he was Mayor of London. All conversions should meet reasonably exacting energy standards, bearing in mind that a disused shop converted to a home might mean one less home built, not such a bad carbon story.

Planning should be reformed, but as a result of tough love, not ideological dislike. Introduced to the UK 70 years ago it may well be time for re-examination (although we have had plenty of that over the years). This does not mean it is time to dismantle it, any more than it is time to dismantle the NHS, founded at the same time. ■