

Proposed changes to EIA screening thresholds

Tom Wells says that developers in London are likely to welcome the proposals but may have been better served by more objective guidance for competent authorities

In his article in July's *Planning in London*, Tom Wells discussed measures that might be adopted to reduce the 'burden' of Environmental Impact Assessment (EIA) on the planning system and increase the number of houses being built, including the potential raising of the screening thresholds for Schedule 2 developments.

On 31 July, the Government issued its 'Technical Consultation on Planning' which, amongst other things, included a proposal to raise the screening thresholds for urban development projects and industrial estates from 0.5 hectares to 5 hectares.

Schedule 2 developments

are the developments listed in Schedule 2 of the EIA Regulations 2011 and are either within a sensitive area (e.g. Site of Special Scientific Interest) or exceed the relevant screening threshold. Schedule 2 developments are considered to be 'EIA development' where they have the potential for significant effects on the environment by virtue of factors such as their nature, size or location. Developments that are not listed in Schedule 2, or developments of a type listed but that fall below the applicable screening threshold – of which there are many in London – fall outside the scope of the EIA Regulations.

Urban development projects (category 10(b))

is probably the most diverse of all those listed in Schedule 2 of the EIA Regulations, which is why the impact in London is so significant. This includes the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas. The European Court has also made it clear that all forms of urban development fall within the scope of this category. This includes residential dwellings.

The Government is proposing to raise the screening threshold for the development of dwelling houses of up to five hectares, including where there is up to one hectare of non-residential urban development. The consultation goes on to state that, based on an average housing density of 30 dwellings per hectare, the new higher threshold will equate to housing schemes of around 150

units. In setting the screening threshold, the Government must take into account the selection criteria listed in Schedule 3 of the EIA Regulations. This includes:

- The size of the development;
- The absorption capacity of the existing environment;
- The extent, magnitude, probability, duration, frequency and/or reversibility of the impacts.

The consultation states that "having considered the Schedule 3 criteria, we do not consider that housing schemes of this scale, which are outside of sensitive areas, are likely to give rise to significant environmental effects within the meaning of the Directive". By limiting the proposals to the raising of thresholds across just two categories of development within Schedule 2 (categories 10(a) and 10(b)), the Government appears to be focussing on its stated priority of increasing the number of houses being built without opening up the consultation to some of the more emotive categories of development.

It is also notable that this consultation is being undertaken separately from that on the transposition of the amended EIA Directive (2014/52/EU). This came into effect in April 2014 and must be transposed into domestic law by Member States within a period of three years (see our briefing note dated April 2014 entitled 'Revisions to the EIA Directive').

The Government anticipates that raising the threshold for housing will reduce the number of requests for screening opinions for residential development in England from around 1600 a year to about 300 a year. However, the proposals are likely to lead to an increase in the number of

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screening directions being requested from the Secretary of State, either by competent authorities or other interested parties who believe that EIA may be required in order to abide by the intended scope of the EIA Directive: that all developments with the potential for significant environmental effects should undergo EIA.

This is especially true as the thresholds may again be set based on area alone – unlike with some other categories of development within Schedule 2 – thus appearing to ignore the other selection criteria in Schedule 3 and overlooking the potential for, say, exceptionally tall buildings on relatively small sites to require EIA.

Developers in London are likely to welcome the proposals but may instead have been better served by more objective guidance for competent authorities on the current indicative thresholds and what significant effects should be considered to be, given the inevitable legal complications that will arise in changing the screening thresholds themselves.

Critics will, amongst other things, cite the fact that target residential densities in the London Plan are between 150 – 1150 dwellings per hectare, as opposed to the average of 30 dwellings per hectare referenced, and that this is again an attack on environmental protection. ■



A London brownfield site

A model for Pocket-ing a piece of London

Pocket's Land Director Nick Cuff talks development models, land acquisition and the enduring appeal of homeownership

In the UK there is a lasting perception that you haven't truly made it until you own your own home. For today's 'Generation Rent' this dream endures, yet young people are finding it increasingly difficult to scramble onto the property ladder. Those who are lucky rely heavily on parental support, while those who are not risk being frozen out of the market altogether. With the average property hitting £500,000 it is clear that aspirational Londoners face climbing a mountain to purchase their own home.

Policy makers need to take notice of this group of Londoners on moderate incomes who earn too much to qualify for social housing, yet find themselves priced out of the property market. These are the city makers who make London tick. They work and play in central London but, priced out of the market, often spend hours every day commuting to and from the periphery. It is essential that we provide housing solutions to avoid an ever increasing exodus of talent.

Pocket tackles this challenge as both a social mission and a business opportunity. Our core market is 25–35 year old singles and couples earning between £30,000 and £45,000. Our developments are location orientated for people who want to live in vibrant urban places.

Last year Pocket was awarded a £21.7 million loan by the Mayor of London as part of his Housing Covenant. The GLA loan allows Pocket to expand its operations and secure a significant London presence. Five years ago Pocket developed one site a year; we are now operating across 16 sites in London and have a pipeline of nearly 500 homes either in planning or construction. In line with our expansion, we are finding that demand for owning a Pocket home outright is growing enormously. Our latest scheme in Hackney sold out within days of launching, and we have a large database of Londoners who want to own 100% of a Pocket home.

The Pocket model is an innovative partnership between the public and private sectors. It builds affordable, exceptionally designed compact homes, which are sold outright to buyers at a 20% discount to the local market. Pocket works closely with councils to develop smaller infill sites on

brownfield land where a market developer would normally not provide much, if any, affordable housing. To ensure these homes reach their target market, the Mayor sets the maximum household income for eligible buyers each year and the maximum price of a flat (currently £231,000). Buy-to-let investors are excluded, and we ensure that homes remain affordable, as they can only be resold to eligible buyers who keep the initial 20% discount.

With the GLA being one of our main partners, we work with a number of contractors sitting on the London Development Panel. We also often work in partnership with many of the major developers in the market, either by including a Pocket presence on larger schemes through Section 106 agreements or by taking a parcel of land in a larger master plan.

If we are serious about tackling the housing crisis, the key is greater public sector land release, which takes too long to acquire. Whilst the GLA has fostered strong relations with the London Boroughs over the last few years there is still a lack

Nick Cuff is Land Director at Pocket and a councillor and former planning chairman at Wandsworth



of coordination between the tiers of London Government over who should sell the land. It means we are often dealing with dozens of different sellers across the public sector, a costly, time consuming process for a small business. If this could be streamlined, it would help enormously.

The reality is the appetite for home ownership is unlikely to fade any time soon. Private enterprises of all sizes need to work in partnership with each other, and with the public sector, if we are to maximise access to homeownership for Londoners. ■

BELOW: Pocket's Fermoy Road development in Westminster



Business leaders call on public to 'speak out' on new runways

London First and 'Let Britain Fly' continue their campaign

Leaders of some of Britain's biggest firms have made an appeal to the public, calling on them to sign a pledge demanding politicians back new runways in London and the South East.

A recent survey by the Office of National Statistics showed a majority (59 per cent) of the British public support the construction of new runways, and the Let Britain Fly Pledge, which was launched last month, aims to give this "silent majority" a voice in the national debate.

The business leaders, including the heads of Harrods, international manufacturer Kesslers, con-

struction giant Mace, property firm SEGRO, and global law firm Linklaters, urged the British public to speak out on the issue, which they say is crucial to supporting future jobs and growth in the UK.

The Let Britain Fly Pledge aims to put pressure on the leaders of the UK's political parties, calling on them to:

- Make a public pledge to build more runway capacity and commit to this in their 2015 election manifestos
- Ensure a Parliamentary vote on airports expansion in 2016 at the latest.

Using email and social media in the run-up to the election, the campaign aims to engage hundreds of thousands of people across the country ahead of the release of the Airports Commission's final recommendations next summer.

In the coming months the campaign will also criss-cross the country, staging a roadshow of events in, Newcastle, Belfast, Edinburgh, Cardiff and Liverpool.

It also had a high-profile presence at the recent party political conferences in Manchester, Birmingham and Glasgow. ■

What they say

Gavin Hayes, Director, Let Britain Fly:

"It's not just a short-list of options we need, but the political will to do something – without cross party commitment none of these proposals will get past the drawing board, that's why we are urging the public to speak out on the need for vital new runways.

Often in the public debate on airports expansion we hear loudly the concerns of those people who are against; Let Britain Fly now wants to create the space and opportunity for the 'silent majority' of people who are in favour of expansion to also have their say.

The evidence suggests that a majority supports airports expansion, and understands the need to support jobs and growth across the country. Today we are giving them a chance to speak out on this important issue by signing the Let Britain Fly Pledge and demonstrating to politicians that voters think this issue is of national importance."

Michael Ward, Managing Director of Harrods:

"Harrods attracts visitors from around the world. But changes in the global economy mean we need to reach out to new markets which complement our existing links. That's why we have been vocal in the debate over airport expansion.

But this is not a decision for British business. The Government should be listening to the public, and the evidence suggests that a silent majority support airport expansion. We urge those people to ensure their voice is heard on this vital issue and sign the Let Britain Fly Pledge."

George Kessler, Director of Kesslers International:

"My competitors in Germany, France and Holland have a huge advantage in being able to get to China (where face to face contact is an essential part of doing business) at short notice and more easily than I. In addition they suffer from fewer delays. The issues with second rate air connectivity are stymying the growth potential of our economy. The need for new runways is urgent and our politicians need to show clear leadership on this issue and not hide behind the genuine difficulties of making a decision.

The British public need to take their opportunity to have their say on this issue which will seriously affect the availability of employment and jobs for both them and their children."

Mark Reynolds, Chief Executive, Mace:

"If the UK and particularly London is to meet our growth challenges and remain a leading world city, our airports must have the capacity to meet these demands. The construction industry has the capacity to deliver infrastructure projects much quicker. Together with government assistance, and the airport owners and operators, we can meet the demands ahead of the current envisaged schedule and stimulate the economy by increasing employment and investment in to the UK."

David Sleath, Chief Executive Officer, SEGRO:

"Global connectivity is vital to the success of the British economy. Many of our customers operate internationally, moving people and products around the world by air. That is why we urgently need politicians to deliver new runways to allow businesses to directly access new and emerging overseas markets.

With better international connectivity, the UK will attract further investment that will safeguard and create new jobs. Additional runway capacity really matters, because fundamentally it's about UK jobs and economic prosperity.

In the run-up to the election more people should join with us in speaking out and ensuring their voice is heard."

Robert Elliott, Chairman and Senior Partner, Linklaters:

"Britain has been a powerhouse of global trade for centuries, not least due to the UK's connectivity with international business and financial centres. Global firms such as Linklaters which serve clients throughout the world benefit from good airport connections, and these play a key role in helping to maintain London's status as arguably the world's leading legal centre.

As other countries continue to build major airport hubs, competition for London is intensifying, underscoring the pressing need for a comprehensive and actionable UK aviation strategy to assure the UK's future competitiveness within the global economy. With airport capacity saturation just around the corner now is the time to seek the widest possible input and make decisions built on the widest possible consensus."

Managing growth

In order to achieve the scale of growth that is needed, we should embrace London and other existing cities, build on their strengths, and address their limitations argues Peter Dijkhuis

With the recent announcement that a proposal to deliver 40 new Garden Cities has won the Wolfson Economics Prize, it is worth assessing the nature of growth that the UK faces over the next twenty years and where this growth is to be focused – whether in London or new towns and cities. It is also worth reflecting how the ideas first established at Letchworth (c.1903) inform current thinking.

Delivering on growth is critical; it has real socio-economic implications. Consequently, one should recognise that the debate should not be just about housing.

The UK's current population is 63 million people (2011 census), projected to grow to 73 million people by 2035 if current trends continue. The scale of housing need is such that as an industry, we should be exploring and pursuing a range of opportunities for achieving sustainable, high-quality developments to meet identified need.

Research shows that the family and household size has got smaller throughout the 20th century (from 4.6 children in 1900 to circa 1.76 in 2000). While individual family sizes have been radically reduced, the need for housing has increased due to a far higher percentage of single person or single parent units. This would suggest that the UK needs to provide 4.54 million homes over the next 20 years; i.e. 227,000 homes per year. In 2012-13 an average of 107,000 homes were delivered.

Our expectations of what constitutes a home have also changed. We have accepted a reduced private space at home in order to benefit from public transport accessibility, economic agglomeration, and urban cultural diversification. However, if we assume that 'every Englishman wants his castle', then we will require approximately 53,000 hectares of land for residential development and an additional 35,000 for roads, public open space and infrastructure; say 88,000 hectares.

Possibly the greatest triumph of the last 100-years is the absolute improvement of working conditions in the UK and a more egalitarian society. The very nature of employment has changed, gone are the individual offices to be replaced by open-planned space and hot-desking. Allow approximately 5,400 hectares for a variety of

employment purposes.

In the Victorian era, education of children was the preserve of the few, today it is a universal franchise. Increasingly, the new model is the urban school with multi-purpose space and night-time education to make best use of these facilities. Allow approximately 1,600 hectares for a variety of educational purposes.

The first Henry Ford Model-T rolled off the production line in 1908 and by 1910 the UK's vehicle production was 14,000 units; and, the first fixed-wing commercial flight from Hounslow Heath Aerodrome to Le Bourget was initiated in 1919. The idea of package holidays is set firmly in the public mind with Butlins opening their first holiday camp in Skegness in 1936. Generally, public transport and mass transport was in its infancy when Ebenezer Howard first started putting pen to paper. Allow approximately 1,600 hectares for land to accommodate infrastructure of national significance.

Our review above, using current planning and development standards, would suggest that the UK will need c.97,000 hectares of land to accommodate our growing population (assuming the growth projections set out above) – albeit that these standards are considerably lower than those of the historic Garden City. To put this into context, the combined Surrey County Council Districts' of Elmbridge, Epsom and Ewell, Guildford, Reigate and Banstead, Runnymede, Spelthorne, Surrey Heath, and Tandridge equates to 100,000 hectares.

We have over 100-years of knowledge of city-building since the first Garden City concept was unveiled. Creating cities is not an exacting science, but by now we have a very good understanding of the building blocks that are required. We need to accept that the UK will become increasingly urbanised and address the issues that this presents.

If we are seriously to initiate a national housing debate, then it should not be just about the house unit per se, but about the impact that 7 to 10 million people will have on our cultural and environmental landscape, both in London and the UK more widely. We also need to deliver on educa-



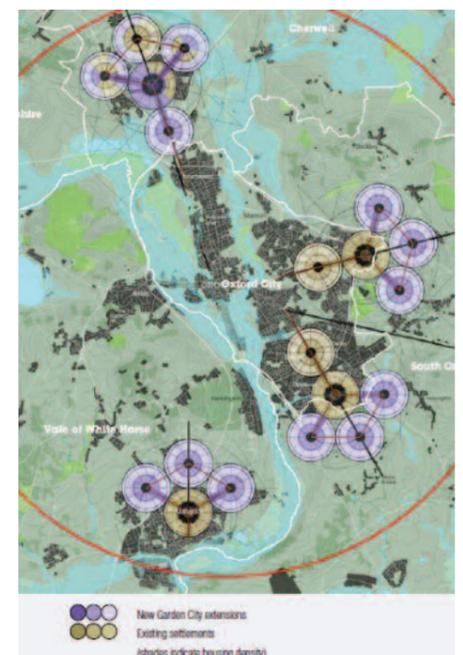
Peter Dijkhuis is a director within the Masterplanning Projects Group at CBRE

tional and community facilities, employment opportunities, supporting infrastructure and transport connections, and areas of environmental habitat.

We need to create a new narrative that is about urbanity, the need for public transport connectivity, and the realisation that new societal opportunities germinate in the agglomeration of cities and international association.

In order to achieve the scale of growth that is needed, we need to embrace London and other existing cities, build on their strengths, and address their limitations – this is after all the cradle of our future society. ■

BELOW: from URBED's winning Wolfson Prize bid – see page 39 et seq



Breaking out of the planning mould

The National Planning Policy Framework was a step in the right direction but more drastic reform is needed if London is to stay the beating heart of Britain, says Marnix Elsenaar

With the housing crisis reaching critical levels and crucial infrastructure in desperate need of new investment, housing and transport are set to be two issues at the top of the agenda for next year's general election.

Both are essential for the future economic growth of the UK, but there is growing concern that the UK's planning system is not fit for purpose to deliver them.

Britain's planning system is unique in its emphasis on consensus, democracy and localism. The system strives to balance the interests of both communities and developers and is remarkably effective in engaging the electorate by giving residents a decisive say over what gets built and where.

However, the drive to localism under successive governments has been far from beneficial to development.

While large-scale regeneration projects - like the 2012 Olympics - have been delivered efficiently and on budget, these remain the exception, rather than the norm. Important decisions about airport expansion have been repeatedly delayed, while HS2 was swamped with litigation before the bill's second reading. House-builders remain frustrated by the delays in receiving consent for homes politicians blame them for not delivering.

New thinking is needed to ease the current gridlock and, to inform the debate, we have launched our *Forward Thinking Planning Manifesto*. London, where the planning deadlock is acute, is a particular area of focus for the recommendations it contains.

The capital remains the undisputed economic and cultural centre of the country and a top tier global city. To maintain this position, it needs the infrastructure and housing in place for the city and its economy to grow.

Critical will be providing the infrastructure for London's booming population - which according to ONS is set to grow by another 13 per cent to 9.4m by 2022. But so too will the renewal of existing services - hospitals and schools as well as housing and transport - making sure they are fit for purpose in the 21st century.

There has been some improvement in the co-

ordination of big projects in the capital and the mayor's £1.3 trillion London Infrastructure Plan 2050 shows appreciation of the enormity of the challenges facing London.

But major decisions are still restricted by the sacrosanct greenbelt, a lack of national coordination, and, perhaps most importantly, planning powers being split between 32 different boroughs (33 including the City of London).

A key recommendation in our report is that there should be a review of the current 33-authority system, with a view to replacing them with a New York-style, Five Boroughs. This will mean greater efficiency, expertise and purchasing powers for the new "super-boroughs".

Planning departments have seen the biggest cuts of all local government functions and, across councils, there is huge variation in terms of expertise and resourcing. Large-scale projects covering multiple boroughs require developers to steer through a complex web of decision-making processes, hindering much-needed investment in infrastructure, regeneration and housing.

Re-drawing the London council map would aggregate skills, reduce costs and promote efficiency. By pooling resources, improving economies of scale and reducing bureaucracy, delivering schemes that would have otherwise crossed several boroughs becomes much easier.

Local authorities in London are already sharing legal and other services, with the tri-borough arrangement between Hammersmith and Fulham, Kensington and Chelsea and Westminster demonstrating the potential of such a system.

We are not proposing the removal of neighbourhood planning or a reduction in the democratic principles that underpin the system but a new borough system will, we believe, significantly improve planning in London.

The role borough level planning plays in the context of national growth is also essential, and feeds into another key recommendation of the manifesto: the creation of a national economic plan.

Incredibly, and unlike many countries around the world, the UK does not have an economic plan in place to set out the future needs of the nation.

Marnix Elsenaar is a partner and head of planning at Addleshaw Goddard



London's Infrastructure Plan 2050 is a step in the right direction, as was the recently issued One North report - which set out a raft of measures focused around transport to bring the northern urban centres of Leeds, Liverpool, Manchester Newcastle and Sheffield closer together - but these have been done in isolation from each other.

The purpose of a national economic plan would be to provide the framework needed to support the UK's future economic growth and, crucially, establish how this will improve quality of life. It would establish a context for the growth of each region and how this fits together at the national level.

We have suggested a plan should be drawn up by a cross-party group chaired by the prime minister with the final version being approved by parliament. Having one up-front debate would prevent individual projects being dragged down by endless legal disputes, while sending a strong signal to investors that Britain is open for business.

An approved national plan would have the benefit of de-politicising many planning decisions, by taking them at a national level, and not putting the onus - and the blame - for their delivery (or lack of delivery) on local politicians.

Another key suggestion of the manifesto is that we need an urgent review of the green belt. While few politicians, quite rightly, are foolhardy enough to recommend developing on this beautified land around London - we must accept that a politically defined band drawn in 1947 is stifling growth and is no longer fit for purpose.

The Green Belt is not the same as Green Field land - quite often it is of little environmental value. Given the housing and infrastructure crises we face, political parties should commit to undertaking a detailed study of the capacity for development within the green belt, performed by an inde-

pendent body that has cross-party backing.

Especially in the context of housing, there has to be a recognition that the current generation cannot simply 'pull up the drawbridge' when it comes to the building of new homes. After all, all homes are built on what were once green fields.

With the general election fast approaching, and critical decisions needed on the future of planning in this country, we hope Britain's political parties take notice of our recommendations, and what's more, take action.

The coalition's National Planning Policy Framework (NPPF) was a step in the right direction, replacing hundreds of pages of policy with a single, short document. It made the system simpler and more open and democratic for all.

But more drastic reform is needed if London is to stay the beating heart of Britain. ■

Martin Goodall is a planning solicitor with Keystone Law



A forward looking planning manifesto

Martin Goodall welcomes Addleshaw Goddard's manifesto but a few of the ideas are, he suspects, too radical for any political party

It seems that the need for proper reform of the planning system, as distinct from the pointless political tinkering that we have encountered over the past 20 years or so, is becoming ever more widely recognised.

London solicitors Addleshaw Goddard (see left) are the latest to add their voice to calls for a more fundamental approach to reform of the planning system. Their recently published document - "A Forward Looking Planning Manifesto" is very much along the lines of what I and an increasing number of other planning professionals have been calling for - including an overall strategic plan at a national level (much more precise, and perhaps prescriptive, than the vague platitudes in the NPPF), as well as the need for strategic planning at the regional level (so wantonly abandoned by the present government) and a proper review of Green Belts.

The need for proper strategic planning, which would include the setting of regional housing targets, is particularly urgent in view of the continuing failure of neighbouring planning authorities to co-operate meaningfully in developing their core strategies, particularly in relation to housing provision. As the authors say, this is necessary in order to counter "local political point scoring, skills deficits and NIMBY-ism".

However, a few of the ideas are, I suspect, too radical for any political party to countenance. For example, I find it hard to believe that the proposal to amalgamate the London Boroughs into just five massive super-boroughs will commend itself to the politicians. A similar proposal to create "metro-regional bodies" (enlarged regional or sub-regional authorities) may also prove controversial.

Addleshaw Goddard say that this manifesto has been informed by the views of "dozens of leading figures and industry experts, public sector figures and developers" which include not only private sector planning consultants but also planners in local government, as well as people in the development industry. This is further confirmation of the increasingly widespread view of those who actually have day-to-day dealings with the planning system that it cannot be allowed to stagger on in its present arthritic (or sclerotic) form.

It seems that it is an idea whose time has come, and this will be a challenge for the incoming government in May 2015. It is timely that the political parties should be made aware of this now, so that they can take it on board in formulating their own manifestos for the next General Election. ■

From Martin Goodall's Planning Law Blog © MARTIN H GOODALL

More planning changes on the way

Government's appetite for messing about with the planning system seems unabated says Martin Goodall

With only nine months to go to next year's General Election, the government's appetite for messing about with the planning system seems to be unabated. De-CLoG has recently published a miscellaneous rag-bag of quite far-reaching proposals for further changes to the planning system aimed (they say) at furthering their objective of streamlining planning.

The government is proposing to tinker with the procedures for neighbourhood plans. They propose to introduce a 10-week time limit for LPAs to

respond to applications for a neighbourhood area to be designated (or for a community right-to-build proposal), as well as modifying pre-submission, consultation and publicity requirements for neighbourhood plans. The requirement for a six-week consultation period on a proposal for a neighbourhood plan would be removed, but affected landowners would have to be consulted. The changes will also address the need to comply with the Strategic Environmental Assessment Directive. The general aim is to speed up the Neighbourhood

Plan-making process, and to reduce the ability of reluctant LPAs and opposing developers to disrupt or delay Neighbourhood Plans.

These proposals are most probably prompted by the limited take-up of neighbourhood plans so far, and the difficulties and delays that have been encountered by those who have embarked on the neighbourhood planning process. The government's aim seems to be to beef up Neighbourhood Plans in an effort to demonstrate in their next election manifesto that they have put >>>

'localism' into action, whereas these much-vaunted initiatives have proved up to now to be a rather damp squib, and are unlikely to counter the impression that the government effectively strangled localism at birth by imposing a requirement on LPAs to approve significantly more development in their areas, whether their councillors or voters like it or not.

This is the one area of change among those proposed in this consultation paper that would appear to require primary legislation. The government says that it intends to introduce new legislation to implement any changes at the earliest opportunity, subject to the parliamentary process. It may in practice prove difficult to introduce and pass such legislation in the time left in this parliament, in which case these ideas about neighbourhood plans could end up being no more than Tory manifesto commitments – a convenient fig-leaf to cover the nakedness of their originally much-trumpeted notions of Localism.

More changes to the General Permitted Development Order are proposed to enable further changes of use in addition to those previously introduced within the past two years. These will include the change of use of light industrial units (B1(c)), warehouses and storage units (B8) and some sui generis uses (laundrettes, amusement arcades/centres, casinos and nightclubs) to residential use (C3), and changes of some sui generis uses to restaurants (C3) and leisure uses (D2).

In addition to these changes, the government is also considering making permanent those permitted development rights which currently expire in May 2016. This flies in the face of the growing opposition among some LPAs to office-to-residential conversions, so this proposal can be expected to cause quite an outcry.

First, the existing time limit for completing office-to-residential conversions that have obtained prior approval will be extended from 30 May 2016 to 30 May 2019. But a revised PD right for change of use from office to residential use is intended to be introduced from May 2016 (so it is entirely dependent on the rather doubtful prospect of the Tories securing a majority at the next General Election). It will replace the existing

PD right, and the exemptions which apply to the current PD right will not be extended to apply to the new PD right. The amended Class J will still be subject to prior approval in relation to highways and transport, flooding and contamination risk, but in future (i.e. after May 2016) it will also be subject to a consideration of the potential impact of the significant loss of the most strategically important office accommodation (although this criterion will be tightly defined).

The right to build larger domestic extensions (under Part 1), currently expiring in May 2016, is also to be made permanent. A single storey rear extension or conservatory that extends beyond the rear wall by between four metres and eight metres for a detached house, and by between three metres and six metres for any other type of house, will be PD, subject to neighbour consultation for these larger householder extensions, which will continue to require prior approval by the LPA.

The right to make alterations to commercial premises has not so far been extended to shops, and so it is now proposed that the GPDO should be extended to allow retailers to alter their premises. PD rights are also proposed to facilitate commercial filming, the installation of larger solar panels on commercial buildings, minor alterations within waste management facilities and for sewerage undertakers, and further extensions (in addition to those already allowed) to houses and business premises.

There is also a proposal to limit the compensation payable where an Article 4 Direction is made to remove permitted development rights. (Any planning lawyer's hackles will rise at that.)

It is also proposed to amend the Fees Regulations for prior approval applications. Where the permitted development is for change of use only, and a prior approval is required, a fee of £80 will apply. Where the permitted development is for change of use and allows for some physical development and prior approval is required a fee of £172 will apply, including change of use from sui generis to residential. Where a prior approval is required to carry out physical development it is intended to introduce a fee of £80, including for the erection of a structure in a retail car park or

the installation of solar panels on a non-domestic building.

While mucking about with the GPDO, the government has decided that it is high time to consolidate this much-amended Order. But consolidation is no more than window-dressing; what the GPDO really needs is thorough re-drafting, to remove the numerous anomalies and ambiguities that have plagued us all for far too long.

Turning to the Use Classes Order, contrary to the general trend, but unsurprisingly, there is a proposal to restrict Class A2, so that betting offices and pay-day loan shops (both currently falling within this Use Class) would become sui generis uses. Planning permission will be required in future for a change of use to either of those uses.

Other changes include the possible merger of Use Classes A1 and A2 (perhaps with other 'town centre' uses), so as to create a much more flexible range of uses in our High Streets. [Somebody in De-LoG seems to have been reading old posts in this blog again!] This will be accompanied by a further amendment of the GPDO to allow change of use to the widened retail (A1) class from betting shops and pay day loan shops (A2), restaurants and cafés (A3), drinking establishments (A4), and hot food takeaways (A5). The existing PD right to allow the change of use from A1 and A2 to a flexible use for a period of two years will remain, as will the right to allow for up to two flats above, and the change of use to residential (C3). On the other hand, the Government proposes to remove the existing PD rights applying to the A2 use class, so as to allow LPAs to control these developments.

With effect from 10 May 2006, any internal increase in floorspace of 200 square metres or more (including the introduction of mezzanine floors) in a building in non-food retail use has been included within the definition of development under section 55, and requires planning permission. As previously announced, the government intends to increase the limit to allow retailers to build a mezzanine floor (but they have not yet settled on a maximum floorspace limit). ■

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All change: Office-to-residential permitted development right

The already complex area of office-to-residential conversions could be about to get even murkier says Jacqueline Backhaus

A recent Government consultation on further major changes to the planning regime contained significant proposals to amend the highly controversial B1(a) office to C3 residential permitted development (PD) right introduced in May 2013. The PD right approves the principle of such a change of use and prevents the local planning authority imposing section 106 obligations in respect of it; most notable is the lack of provision of affordable housing.

It is proposed to extend the existing right from the May 2016 expiry date to 2019 and to remove the blanket exemptions granted to areas considered to contain the most strategically important office space (including most of central London). Developers will welcome these changes. It will remove the rush to ensure that residential units are ready by 2016 which many are already experiencing as a problem.

Additionally, central London office locations with potentially considerable residential value will no longer be excluded from the PD right which opens up real opportunities. Large parts of the City of Westminster and Boroughs surrounding the City will be prime targets and central London Boroughs have already voiced their dismay at this potential change.

Even if Article 4 Directions are made for these areas to remove the PD right (as we would anticipate), developers will either have a year to make the change of use before the Article 4 Direction comes into effect or they may be entitled to compensation for the withdrawal of the permitted

development right. Developers are already looking for properties, whether vacant or not; the ability to break leases being a prime consideration which was not the intention behind the proposed PD rights when introduced.

Developers will also welcome the extension of the permitted development right from just B1(a) use to include B1(c) (light industrial) and B8 (storage and distribution).

This will open up a very different class of property to the PD right; rather than the high end, central developments which have primarily benefitted from the existing B1(a) right, industrial sites in outer London Boroughs could now be sought out by residential developers.

The Government is, however, asking whether the prior approval process for the existing B1(a) to C3 PD right should include a consideration of the impact of the significant loss of the most strategically important office accommodation within the local area. Additionally, the extension to B1(c) and B8 uses is proposed to be subject to prior approval on the impact of the proposed residential use on neighbouring employment uses.

Both of these changes would introduce enormous uncertainty into the process. For example:

- Against what criteria would the impact be assessed? Local development plan policies? Or against only the NPPF?
- What constitutes an unacceptable impact that would justify refusal of prior approval?
- Would the imposition by local planning authorities of section 106 obligations to mitigate the

Jacqueline Backhaus, head of planning at law firm Trowers & Hamlin



impact be justifiable? If so, what obligations could be required?

With uncertainty, however, comes opportunity. The introduction of these considerations seems to go against the intention of the PD right, which is to establish the principle that a change of use to residential is acceptable. A Council will, however, have to justify why a particular office use is of strategic importance in a particular area.

If a developer has achieved vacant possession, this may be a difficult matter to prove. Maybe the introduction of this test shows that the Government is having a change of heart and responding to local planning authorities' disquiet over the office-to-residential PD right.

Could the introduction of these considerations be an attempt to steer a middle ground between freeing up land for housing and allowing local planning authorities to retain an element of control over development in their area?

Whatever the rationale, it appears that the already complex area of office-to-residential conversions could be about to get even murkier. We await the Government's final proposals following the end of the consultation period. ■



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The sell-off risks wasting millions

Councils should think like developers according to new research from Localis and developer Cathedral. Chris Bown reports

Pressure on local authorities and public bodies to sell off land threatens to see the next great mis-selling scandal, with sites sold off too cheaply. While selling is the Government's mantra, in the hope developed sites will solve the housing crisis, the rush to do deals also obscures other, better value options, according to a new report.

Research by think tank Localis, supported by developer Cathedral Group is entitled *Public Land, Public Good* says around £13.5bn of public assets are likely to be redeveloped and there is a danger that underselling could lose more than £45 million a year for the public purse.

The good news is councils are starting to adopt a more entrepreneurial mindset, acting as developers and looking to retain assets. However, the moves they make are still disjointed, and can lack commercial strength.

The report suggests:

- a "hit squad" of experienced local authority officers be established, tasked with maximising returns. By vetting deals it is reckoned they could deliver a five per cent increase in values achieved
- worth almost £700 million of extra revenue.
- annual registers of assets to be produced and updated, from all arms of local and central government, increasing transparency
- local authorities should lead in co-ordinating public land in their areas, acting as a custodian for communities. "Our concern is about selling off the family silver," says Martyn Evans, creative director at Cathedral. As well as the silver being sold off too cheaply, Evans says selling is often not the right solution.

The reason for the calls to sell is clear, says Evans: "There is no money in the public purse" and lots of public assets are falling apart. "We don't have the money to replace them. And we haven't got enough houses. We're on a mission, because it's a scandal about to happen. Once these sites are gone, they're gone."

But aside from the financial implications, simply selling sites divorces what is delivered from communities that councils preside over. "We think that is a big mistake. Those issues are not being addressed in the sales process.

The answer is for authorities to become more like developers. Only sell it off as a last resort and don't just deliver housing." Selling often sets a public body into an adversarial situation with a

private developer, who will negotiate hard to minimise the price, maximise the planning permission they receive, and then screw down their planning obligations to the minimum.

Economic viability arguments are then increasingly produced to chip down affordable housing and other payments. "Typically, relationships between developers and local authorities are adversarial. Until we stop that toxic relationship, things are not going to work out well," says Evans.

The problems of developers ducking obligations came to the fore in an August planning committee meeting at Westminster. Presiding officer Godfrey Woods noted there was no ability to claw back monies should schemes exceed the pessimistic economic viability numbers proffered. "There is a flaw in the methodology," he warned members. When asked why there was no claw-back, should development values rise, he noted: "It's not our policy to do that. It's a sensible thing to do. But there is huge resistance from the property world."

For developer Cathedral, drawing attention to the issues also ensures its own approach of local authority partnership gets wider attention from potential partners. "It's a large part of our business, around half of our projects are with local authorities. When we both understand each other, everybody gets more of what they want," says Evans.



It operates on an open book basis with a local authority, sharing the upside and allowing the authority to keep freehold or leasehold assets whenever possible.

Cathedral's flagship example is its award winning Clapham One project, a partnership with the local authority across two sites that delivered a new library, leisure and health centre for the borough, along with a mix of market and affordable homes. The private sector elements funded the public facilities, as well as allowing the local authority to retain a stake in the land assets.

High land values favour such schemes, says Evans: "You would be challenged the further you go from high value locations." But such deals do work elsewhere, and Cathedral is active on five partnership projects including one in Sittingbourne, Kent that cross-collateralises values over nine sites in the area.

The message is getting through at a number of authorities. In April, Birmingham City Council agreed to progress plans to build its own development of 90 private rented flats on a site it owns close to the city centre. And in July, Sutton has set up a housing development company to build private rented and affordable homes.

"There is a huge demand for new homes that isn't being met in our borough, and we're determined to do something about it," said Sutton's councillor Jayne McCoy. By being involved in the development of new homes, we can stipulate that they are only for Sutton residents, and make sure there is a focus on the housing we want such as family homes."

One issue often raised is that of borrowing money. Evans points out that this doesn't need to be a problem in a partnership project which sees the council putting in their land assets as their contribution. "They don't have to borrow money – commercially viable deals are fundable." ■

Chris Bown writes for our sister publications City Planning and Westminster Planning. This article first appeared in cityplanning September 2014. with kind consent.

LEFT: Cathedral's flagship example is its award winning Clapham One project, a partnership with the local authority across two sites that delivered a new library, leisure and health centre for the borough, along with a mix of market and affordable homes designed by Studio Egret West

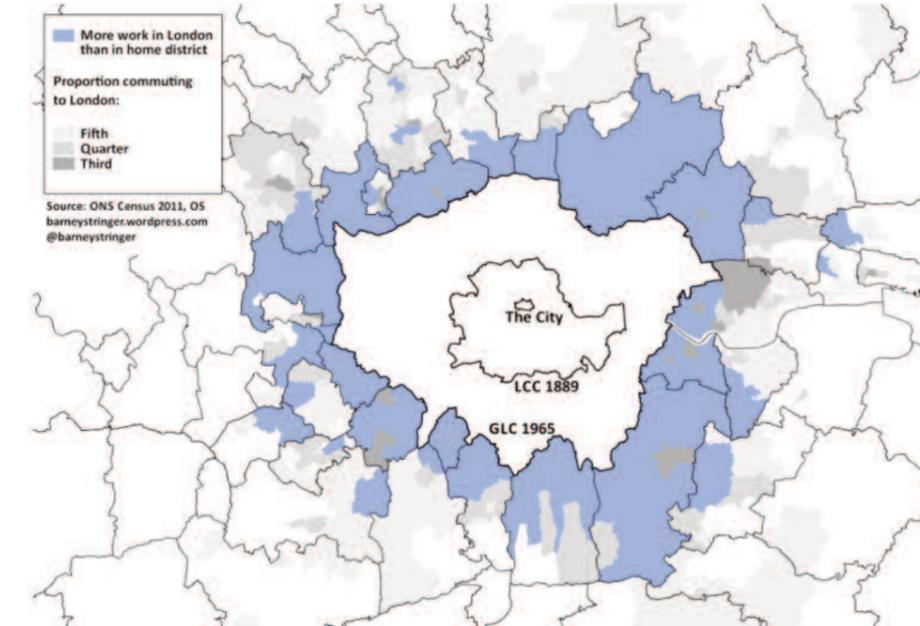
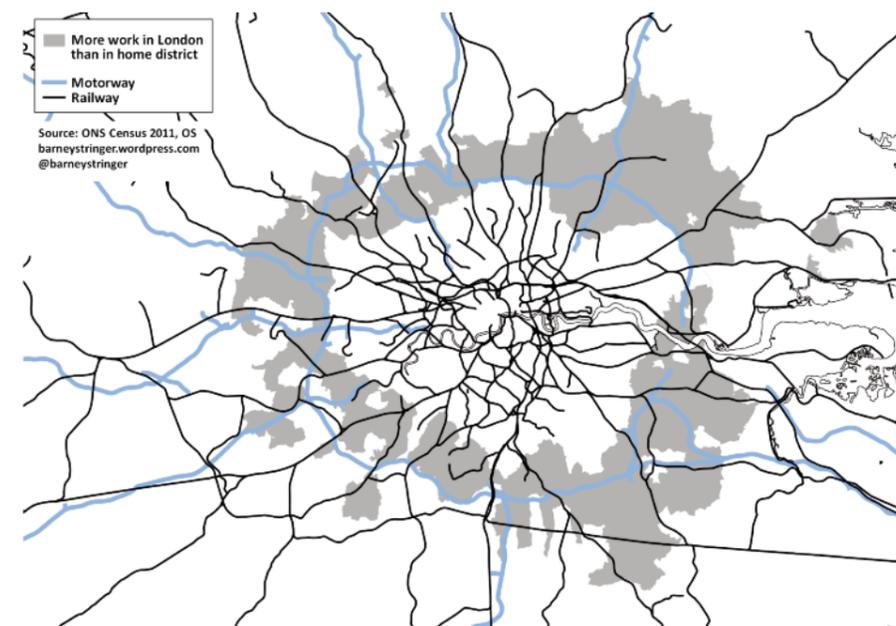
Is London too small?

Is it time to redraw the map of London to reflect the reality of its huge economic pull on the wider south-east? asks Barney Stringer, director of Quod, writing in his blog at <http://barneystinger.wordpress.com>.

New data released last month shows what an even "greater" London might look like. Many British cities have boundaries that don't match reality – Bristol for example has substantial suburbs that actually lie in neighbouring authorities. Greater Manchester is split between ten councils, which have worked hard to overcome this administrative handicap.

London has been growing faster than any of these, and it seems reasonable to ask whether its political boundaries still make sense. We've done this twice before: In 1889 the London County Council was created (roughly matching today's inner London) to recognise that the Victorian city had spread way beyond the old Roman-walled square mile. Then in 1965 the Greater London Council took in the metroland suburbs to form the capital's current shape.

In 1965 London had a rapidly falling population. Now it is booming – with a million more people in the last decade. On top of this, a further 800,000 people commuted into London for work in 2011. That's nearly 10 per cent up on the previous Census, and has probably increased even



further in the last three years as the recovery gathered pace.

A soaring jobs market, plus a shortage of housing, adds up to growing pressure on regional commuter rail routes to bring the workforce in from elsewhere. That's why we need investments such as Thameslink, Crossrail 1 and Crossrail 2, to better integrate central London to the wider south-east of England.

If London's boundaries now contain its economy so poorly, where should they be drawn? That of course is a very political question, and fifty years ago some districts fought furiously to avoid becoming part of London. But the latest Census data on travel patterns offers a good starting point.

The map above shows what proportion of

workers in the area around London commute into the city for work. The areas I've highlighted in blue are places where more people go to work in London than go to work in their own district (Note that home workers are not included in these figures). These are not so much dormitory towns, as a whole dormitory belt around London that is utterly dependent on the city for work. In many cases entire districts – Epping Forest, Spelthorne, Epsom and Ewell, and Three Rivers – provide fewer jobs for their residents than London does.

More than 1.3 million people live in the area marked blue. Every day, many of them decant into London. Their council tax does not contribute towards the services they use there during the working week, nor do they get a vote on how those services should be provided.

Is it time redraw London's boundaries once again, to embrace these areas that already function as part of the city? Or are there other ways to integrate London's hinterland, perhaps by giving the Mayor of London greater powers over transport and housing beyond London's boundaries?

Update – 29/07/14

Many thanks for all the feedback on Twitter. Several people have asked how this area relates to the M25, which is a good question as the orbital motorway is often seen as a handy approximation for the edge of London. So I've done another version of the map (LEFT), that shows it in relation to transport (motorways and railways), rather than the political geography of the version above.

This time the "dormitory belt" of areas where London dominates employment is in grey. Not surprisingly (as this is by definition commuter land), it shows an area already quite well-integrated into London's transport network. ■