

Unblocking planning needs more action



* in the case of *Council of the LB Bexley v SSCLG and Arslanboga*

The welcome ambition of the new government to streamline planning is not unprecedented but previous efforts have had the reverse effect (see David Rudlin on the Raynsford Report, page 17).

The changes being introduced on housing targets and planning committees may help, but in the short term the promised updated National Planning Policy Guidance needs to do some heavy lifting.

First, it needs to emphasise that planning policy and development control are about the management of change and to recognise explicitly that most development involves change rather than conservation or preservation of the status quo.

This applies to design as well as infrastructure. In 2008 Michael Manser put it this way: "An accurate reproduction of a medieval, eighteenth Century, Victorian or Edwardian style, is a choice, as is Modern. Each has characteristic geometry and materials which define the period in which it was built. Some of the most admired historical environments derived much of their success by the accretion of contrasting designs."

In 2009 John Howell QC sitting as a deputy High Court judge* said: "The development plan and other planning policies provide guidance on how to determine planning applications on their merits. They are not devices for depriving material planning considerations of relevance or blinkers to impede a decision maker taking an informed view of the planning merits."

National Planning Policy Guidance needs to enforce key aspects of the new NPPF including the following:

201: "The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions... Planning decisions should assume that these regimes will operate effectively."

123: "Local planning authorities must determine applications on planning grounds only."

And a special message for the validation police:

45: "Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question."

The Planning Inspectorate should be seen to be vigilant in enforcing these criteria and be prepared to award costs where authorities have gone beyond issues directly relating to the acceptable use of land.

This leaves us with the further conundrum created by the intrusion of tax collection into the planning system. What are now section 106 obligations used to be very strictly limited to works and costs directly related to the development itself. These now embrace far wider impacts.

The viability industry which has emerged at great cost in time and money from the attempt to tax house builders before they can even turn a profit urgently needs addressing.

It can be argued that the incorporation of subsidised social housing into larger developments does have a land use dimension and therefore needs some pre-determination, but as things work at the moment the developer is being taxed not out of profit but out of some illusory calculation well ahead of achieving any profit or loss, so adding to risk.

This has led to today's log jam of housing developments with planning permissions unable to secure a housing association partner to make the development viable. Homes England has suggested setting up a clearing house which may be a good idea but demonstrates the depth of the problem.

In simple terms, local policy could require a reasonable proportion of subsidised housing in larger schemes and the subsidy should automatically become available from government funds. In so far as super taxation is justified this should be based on the actual profits made by the developer.

This would clear some roadblocks on the way to 1.5m new homes.

EDITORS' NOTE

The government published the planning performance data a month later than usual.

For this reason we have held this issue by a few days to be able to incorporate them (on page 34)

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

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Design codes offer desirable certainty...

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How about enabling boroughs to use receipts from CiL and S106 agreements to fund design coding and masterplanning exercises

What's the developers' most frequent whinge, apart from being over-taxed? Yep - the absence of certainty in our planning system. 'We know roughly what it costs to build, we know roughly what the value will be, but at the most crucial moments of maximum risk, we don't know when or if we'll be able to get planning, or how long it might take.' A whinge, depending on your point of view, that has fallen for decades on deaf ears. The social and economic costs of uncertainty are all too real though, even if hardships for 'greedy' developers get treated with scorn.

It should be an essential tenet of the planning system to offer certainty, with some flexibility, as to what can and cannot be built. And to quickly update policy when markets or need change quickly after reasonable consideration (never mind producing completed plans on time...the rarity of which is a national scandal).

We last wrote about the topic of progress on Design Codes, now part of planning policy, following a presentation to last summer's London Planning and Development Forum. And in particular in relation to LB Southwark's emerging Design Code for the Old Kent Road Opportunity Area (see *PiL* 130). Good to see this is being produced in time for the arrival of the Bakerloo Line extension now looking more likely, political intransigency permitting.

Now another Design Code with accompanying parent masterplan, offers the sort of certainty that is needed and 'must, could, should' (key words in how the Code will operate) demonstrate the potential that such codes have for all London boroughs. Combined, the new Staples Corner Design Code and Masterplan should offer local people, businesses, developers, investors and all stakeholders very clear guidance, and therefore certainty about what will be given planning permission, or not.

But even a borough as large as Brent had to receive funding from MHCLG (or DHLUC as it was when the Design Code Pathfinder programme was launched) to be able to afford the Code's production. How about enabling boroughs to use receipts from CiL and S106 agreements to fund such coding and masterplanning exercises in future? Because one thing is certain, better spatial planning, offering certainty is much more likely, rather than just more policy, to encourage investment and renewal.

And perhaps the most exciting thing about Brent's plans for Staples Corner is that the borough is offering certainty that 2,200 new homes can be accommodated in this previously industrial area, at greater density - and co-located with employment and other uses.

This is planning that London needs, has needed for decades. Better late than never.

...while uncertainty continues in the Royal Docks

Meanwhile at the other end of town, in the Royal Docks, came news at the end of 2024 that Sadiq Khan's 'flagship' London housing fund may need bailing out after 'repeatedly' missing repayments on a £300m state loan and failing to keep appropriate records about the debt, according to auditors.

Why the Royal Docks should remain conspicuously unregenerate when they overlook the most dramatic expanses of water in the UK that are not on the coast, remains something of a mystery. The last vessel to be loaded left on December 7th 1981, 43 years ago. Since then other private developers have built several thousand homes on other adjacent dockland sites. True, the unviable visions of several private developers (not least Sir Stuart Lipton's), for the heart of the Royal Docks, have contributed to several decades of delay between them.

But the the GLA, through GLA Land and Property, owns 635 hectares in London, mainly in the Royals. That is equivalent to 23.5 Kings Crosses. There are something like 1750 homes at King's Cross. Across the GLAP's portfolio, to extrapolate, there is theoretical capacity for 41,000 homes.

It is questionable whether the GLA, which now resides in the Royal Docks, should be allowed to continue its dubious stewardship. At present this portfolio of land has to be London's biggest target in terms of producing the homes Londoners need. ■

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