

Building control and planning

[Men] live by positive goals, individual and collective, a vast variety of them, seldom predictable, at times incompatible.
 – Sir Isaiah Berlin



The Andy Rogers column

The late lamented Keith Waterhouse held that the art of writing a column is not to say what the man in the pub is thinking but what he will be thinking once he's read it. This is why I make no excuse for outlining the case for a progressive amalgamation of the planning and building control systems.

At present the interface between planning and building control is unclear and varies from authority to authority and this is especially true in London. As a general rule there is very little interaction: building control officers do not usually monitor planning permissions and planners are very often unaware of the technical requirements that are included in the Building Regulations for different types of building (or the nuances of the Party Wall etc Act, that grew from the London Building Acts). This dichotomy has become more pronounced as the planning system has (for various reasons) been obliged to consider matters that more realistically fit into the later, working drawing stages of project design.

Examples are the detailed information requirements now built into many local planning authority application validation lists, such as structural surveys, sound insulation, code for sustainable homes ratings and even BREEAM evaluation. Other technical requirements (flood risk assessment, green travel plan, arboricultural statement, landscape study, etc) are mostly dealt with by reference to expert advice available to the case officer when considering a planning application (for example the Environment Agency for flood risk and the Highways Authority for traffic management, both of which may be statutory consultees).

Many of these technical requirements are often far too detailed for the early design stages, so it is important for planners to liaise with building control officers to better understand general performance requirements instead of getting bogged down with detailed technical matters when considering a scheme approval in principle.

Because the impact on design of requiring, say,

a workable strategy for means of escape in case of fire or a Code for Sustainable Homes rating of 3-4 is not usually understood by the planning case officer, it makes sense for the planning and building regulation regimes to be formally linked. Such a system could be introduced in stages, starting with simpler Householder applications, where a "one-stop shop" approach would provide approval (for example by accredited agents) for all planning and technical requirements together with realistic monitoring, during and after construction.

This could then be translated into a stepped regime for all applications, working from outline permission, when the building regulation advice would be more general, through detailed construction approval including full technical information, to monitoring during construction (allowing for alterations if appropriate without the need to start again at the beginning). By this method the technical requirements would be integrated into the design at an early stage and the planning officer – or approved agent / development manager – would be aware of the impact of any design changes that may be recommended.

The ACA argued for the reform of planning along these lines in its response to the Barker Review and together with a major revision of permitted development rights on the basis of measurable impacts - supported by 'deemed-to-satisfy' guidance on similar lines to the Building Regulations. New development proposals would need to comply with Local Development Documents and could be certified by 'approved agents' who, as at present with building control, could be officers of local authorities or professionals, but appointed and paid by applicants.

In this way, three levels of proposal would be considered: outline, full, and approved for construction. Outline and full would generally be subject to conditions that may call for the approval of reserved matters in the subsequent stage(s). Full applications would be able to deal with sustain-

ability issues in principle - performance specifications - but not in detail. Approved for construction proposals would automatically satisfy both planning and building regulations requirements, on a 'deemed-to-satisfy' basis relying on clear guidance with the option of a determination or appeal in exceptional cases (as now for Building Regulations approvals).

As an ideal system, reflecting the best practice of designers who consider all these issues as an essential part of the development process, this would have the advantage of merging planning and building construction approvals, thus reducing the amount of regulation overall in line with current Government initiatives. The planning and building regulation regimes, far from being incompatible, should be complementary and their logical amalgamation surely makes sense to the man in the pub.

A National Planning Forum Task and Finish Group involving key players in planning and building control - including the ACA - is already aiming to find ways of making the interface between planning and building regulations work better. The Group has considered practical ways to move the CLG's "Future of Building Control Implementation Plan" forward and is hoping to develop cross-sectoral support.

I have spent so much time as a reasonable man trying to work within the present, often contradictory and increasingly complex systems - trying too often to reconcile opposing conflicts - that I propose the amalgamation of planning and building regulations as a positive change, although it may to some appear unreasonable. George Bernard Shaw believed that "The reasonable man adapts himself to the world: the unreasonable one persists in trying to adapt the world to himself. Therefore all progress depends on the unreasonable man".

Amalgamation is a positive goal, however unreasonable it may seem at first. Perhaps you will be thinking that next time you are in the pub.

Fall in applications down to 21%

Planning applications

In the June quarter 2009, authorities undertaking district level planning in England received 118,000 applications for planning permission; this represents a decrease of 21 per cent compared with the corresponding quarter in 2008. All regions, including National Park authorities, saw a decrease in the number of

planning applications received when compared with the same quarter a year ago. The largest decrease was in the South West (24 per cent) whilst the lowest decrease was in the West Midlands (16 per cent). National Park authorities also saw a decrease of 14 per cent. In the year ending June 2009, authorities received 476,000 applications, a 24 per cent decrease

from the year ending June 2008 figure.

Planning decisions

District level planning authorities determined 105,000 planning applications in the June quarter 2009, 27 per cent lower than in the same quarter last year but a 12 per cent increase over the March 2009 quar-

ter. All regions, including National Park authorities, saw a decrease in the number of applications determined compared to the June quarter 2008. The largest decrease was in the North East and North West (both 30 per cent). Other large decreases were in East Midlands and the east of England (both 29 per cent). The lowest decrease was in London (24 per cent). The National Parks also saw an overall decrease of 23 per cent. In the year ending June 2009, 450,000 applications were determined, a decrease of 23 per cent compared with the corresponding period a year ago.

Applications granted

84 per cent of all decisions in the June quarter 2009 were granted, an increase of 2 percentage points when compared with the June quarter 2008. Approval rates across the region ranged from 77 per cent in London to 92 per cent in the North East. These percentages represent a two percentage point increase in the approval rate for authorities in London and a one percentage point increase in the approval rate for authorities in the North East when compared with the same quarter a year ago.

Residential and householder decisions

Decisions made on householder developments were down by 33 per cent from 73,600 in the June quarter 2008 to 49,300 in the June quarter 2009 and accounted for 47 per cent of all decisions. Decisions on applications for residential developments decreased from 19,300 in June quarter 2008 to 12,100 in June quarter 2009, a decrease of 37 per cent.

In the June quarter 2009, authorities granted 73 per cent of major residential applications and determined 65 per cent of them within 13 weeks. Also 68 per cent of decisions on minor residential applications

Planning Decisions on Major and Minor residential development (DCLG Table 8)

London Boroughs	Year ending 30 June 2009						April-June 2009					
	major residential decisions	% granted	% within 13 weeks	minor resi. decisions	% granted	% within 8 weeks	major resi. decisions	% granted	% within 13 weeks	minor resi. decisions	% granted	% within 8 weeks
London	600	56	70	8,400	57	75	100	58	73	1,800	59	76
Barking & D	4	100	25	81	42	75	-	..	..	6	33	50
Barnet	31	61	87	461	53	82	5	40	100	107	60	86
Bexley	11	36	73	79	62	66	-	..	..	13	62	62
Brent	25	72	76	217	60	69	8	88	88	57	65	77
Bromley	30	67	77	305	54	64	8	75	50	53	62	57
Camden	12	50	100	270	77	50	5	60	100	60	78	62
City	1	100	100	5	80	20	-	..	..	3	67	33
Croydon	75	41	69	467	49	73	10	40	80	110	60	76
Ealing	15	33	53	193	51	76	3	67	33	27	59	74
Enfield	15	67	87	388	45	88	1	-	100	72	40	92
Greenwich	6	33	67	54	39	63	2	100	50	10	60	60
Hackney	18	72	61	247	67	72	3	67	33	57	65	82
Hammers & F	3	67	-	165	76	76	2	100	-	33	73	79
Haringey	15	47	73	254	47	81	1	100	-	49	37	92
Harrow	34	74	76	321	41	83	-	..	..	60	42	73
Havering	12	42	92	198	53	80	5	20	80	35	74	71
Hillingdon	16	19	94	307	35	73	5	20	80	50	44	82
Hounslow	16	50	63	138	33	79	2	50	100	32	34	72
Islington	12	83	92	251	67	80	2	50	100	46	59	61
K & C	9	78	56	603	80	81	2	50	100	121	88	91
Kingston	9	44	56	178	43	67	1	-	100	25	32	56
Lambeth	33	33	94	462	44	89	4	25	100	87	37	94
Lewisham	17	82	35	222	62	59	3	67	33	48	60	58
Thames Gateway	#	#	#	#	#	#	#	#	#	#	#	#
Merton	13	46	15	187	52	68	4	75	-	47	55	62
Newham	14	86	57	138	41	91	4	75	75	30	60	90
Redbridge	5	40	80	132	25	84	1	-	100	37	19	86
Richmond	5	40	60	266	71	52	2	50	50	53	74	55
Southwark	49	55	82	269	54	75	11	73	100	68	47	76
Sutton	21	38	62	170	50	72	3	67	33	35	60	71
Tower Ham	#	#	#	#	#	#	#	#	#	#	#	#
Waltham F	13	38	69	266	29	79	1	100	100	42	24	86
Wandsworth	23	61	74	493	78	73	7	57	86	122	78	73
Westminster	9	89	78	394	79	61	-	..	..	120	76	63

Source: Source: DCLG (www.communities.gov.uk)

incomplete data

Planning Decisions, by development type and speed of decision (DCLG Table 7)

London Boroughs	Year ending 30 June 2009					April-June 2009					% of decisions delegated to officers		
	Total major decisions	% within 13 weeks	Total minor decisions	% within 8 weeks	Total other decisions	% within 8 weeks	Total major decisions	% within 13 weeks	Total minor decisions	% within 8 weeks		Total other decisions	% within 8 weeks
London	1,500	71	19,700	77	51,400	87	300	74	4,400	78	11,900	89	88
Barking and Dagenham	16	69	206	86	511	96	2	50	42	83	114	93	88
Barnet	69	87	960	83	2,935	91	13	92	235	89	657	94	92
Bexley	29	59	306	78	1,307	93	3	67	65	77	317	95	92
Brent	42	81	504	73	2,013	86	13	85	113	80	595	90	93
Bromley	73	82	727	71	2,113	83	17	65	143	66	531	80	82
Camden	33	82	765	61	1,940	71	14	86	186	73	404	82	93
City of London	18	17	173	88	242	87	4	-	46	93	61	93	92
Croydon	93	69	810	76	1,605	87	12	83	222	77	352	91	95
Ealing	53	57	453	76	2,305	89	12	67	90	74	562	85	95
Enfield	25	80	708	85	1,766	95	4	75	149	87	411	96	96
Greenwich	35	74	367	78	993	87	11	73	71	76	223	88	90
Hackney	50	64	629	75	778	85	10	70	161	85	149	89	96
Hammersmith and F	29	34	457	79	1,404	90	12	17	116	83	316	87	93
Haringey	21	71	438	80	1,274	89	1	-	77	82	309	92	99
Harrow	64	77	548	84	1,778	94	9	67	107	79	392	94	94
Havering	27	70	444	83	1,456	94	8	75	101	79	377	94	88
Hillingdon	77	82	582	75	1,938	90	17	88	105	81	407	93	90
Hounslow	52	62	341	81	1,796	86	11	82	68	72	437	82	93
Islington	39	79	644	85	1,249	88	9	78	123	72	319	87	85
Kensington and Chelsea	31	55	929	82	1,928	81	4	100	197	92	427	92	89
Kingston upon Thames	27	70	397	74	1,185	91	2	100	62	68	286	94	91
Lambeth	78	95	732	89	1,369	97	16	100	142	93	363	98	96
Lewisham	26	50	380	65	1,218	84	3	33	93	58	256	80	93
London Thames G UDC	#	#	#	#	#	#	#	#	#	#	#	#	#
Merton	36	58	445	71	1,588	84	19	68	106	72	350	81	91
Newham	28	78	431	93	704	97	8	88	89	91	154	99	99
Redbridge	22	77	438	75	2,136	90	8	75	107	74	521	89	-
Richmond upon Thames	15	60	952	68	2,388	85	7	57	225	75	578	88	95
Southwark	98	80	609	77	948	86	24	79	161	74	187	83	87
Sutton	47	55	324	72	937	89	11	36	67	75	215	91	93
Tower Hamlets	#	#	#	#	#	#	#	#	#	#	#	#	#
Waltham Forest	29	66	471	77	962	89	7	86	86	88	214	95	96
Wandsworth	39	82	805	75	1,858	90	10	90	195	75	407	93	86
Westminster	69	81	2,088	73	4,163	81	11	100	542	70	883	80	93

Source: Source: DCLG (www.communities.gov.uk)

no data

were granted and 73 per cent determined within 8 weeks (Table 8).

Enforcement action

Table 4 shows statistics on formal enforcement action taken by responding authorities in each year since 1999-00. In the June quarter 2009, authorities issued 1,240 Enforcement Notices and served 1,153 Planning Contravention Notices, 211 Breach of Condition Notices, 32 Stop Notices and 65 Temporary Stop Notices. In the June quarter 2009 27 Enforcement Injunction were granted by the High/County Court. In the June quarter 2008.

SUMMARY

The number of planning applications received by district level planning authorities decreased by 21 per cent when compared with the June 2008 quarter.

District level planning authorities also saw a decrease of 27 per cent in the number of applications decided (granted or refused) when compared with the same quarter a year ago.

Decisions on planning applications for residential developments (dwellings) decreased by 37 per cent in the June quarter 2009 compared with the June quarter 2008. Decisions on major residential developments (10 or more dwellings) fell by 46 per cent over the same period.

The percentage of major applications determined within the 13 week



Permissions granted nationally

target was 71 per cent compared with 72 per cent in the June 2008 quarter.

Authorities that undertake county level planning activity determined 302 applications, a decrease of 19

per cent when compared with the same quarter a year ago.



PINS progress

Andy Rogers just got back from the annual Planning Inspectorate review in Bristol, where stakeholder opinions are discussed and the Agency's performance is explained.

While the total number of appeals submitted is declining (from an average of 400 a week last year to around 330), the average number decided seems to remain fairly constant, which means that the time taken to issue decisions is reducing. The targets for standard s78 and s20 appeals (50 per cent of decisions to be issued within 16 weeks for written representations and 30 weeks for hearings and inquiries) have been met or exceeded, but the speedier target for starting 10+ dwelling appeals (100 per cent within 20 weeks) has not, with inquiries particularly bad (at 77 per cent).

However, the new fast-track householder appeal system is working well, with 100 per cent of the 109 appeals determined having been decided within 8 weeks. The surprise here is that the number of these appeals (363 to date) has been a good deal lower than expected – whether due to the recession, the more liberal revised permitted development rules, or the reluctance of householders to appeal is not clear.

Other topics discussed included the allocation of inspectors (there was general resistance to Poole's suggestion that they should have local knowledge) and a plea for better publicity explaining that inspectors are completely impartial and that those with particular expertise are allocated when specialist experience is required (a review of inspectors' specialisms and compatibility is under way); the difficulties found in persuading planning authorities that to be sound their Local Development Documents must be informed by relevant up to date evidence – not just data (which is being addressed by PINS in seminars and information

meetings held around the country); and the use of conditions (PINS is currently reviewing model conditions and would welcome evidence and suggestions on this topic).

ACA was particularly critical of a trumpeted "21 Century Appeals Service" that does not allow downloading/completion of standard appeal forms, or submission of appeals on line by AppleMac users. The Inspectorate is working on a more universally available and user-friendly web-based self-service management system for appeals and related information, expected to be finalised next Spring. Meanwhile Mac users have to stick with handwritten forms and snail mail...

Finally, concerns were expressed over the feeling that the new rule

allowing PINS to determine which appeal procedure is to be used may not permit everyone to be heard (as highlighted by leading silk Robin Purchas QC in a recent Planning magazine interview). Although there is a system for objecting if the preferred procedure is ruled out, this is not yet used to any great extent and was not used at all by local planning authorities in the first two months. Planning magazine has reported that there were about 5 per cent of unsuccessful challenges in the early months, but this has risen to 15 per cent over the first five months. A small number of reversals have nevertheless been agreed – on average 8 per month since April (from an average of 20 challenges) – most in the last two months.

NEXT MEETING of the London Planning & Development Forum

is at the newly made-over RICS, 12 Great George Street SW1P 3AD (Brussels Room) courtesy Jo Shockley.

Monday 7th December at 2.30pm

The meeting will consider the draft London Plan with a presentation by GLA's John Lett, and also the diverging views of the major political parties on planning policy.

Please check planninginlondon.com for details and to register. Newly improved RICS biscuits and muffins are promised!



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Planners slam Barnet Council's proposals for "Ryanair style" planning system

The Royal Town Planning Institute has responded to the announcement by Barnet Council that it will introduce a faster planning process for applicants who pay an additional fee by warning that the proposals risk creating a "two-tier" planning system. The RTPI believes that if it is accepted that decisions can be speeded up by securing greater resources through increasing planning application fees, then the planning profession needs to decide whether fees should be increased across the board. However, there are processes and variables in the consideration of planning applications – including effective consultation – that cannot be avoided by throwing money at them.

Matt Thomson, Head of Policy at the RTPI said "These proposals risk creating a two-tier planning system where wealthy developers appear to receive preferential treatment... The RTPI agrees that our planning system needs to be properly resourced but creating a system that seems ready-made for conflicts of interest and raised expectations among applicants of the success of their proposals is not the way to proceed."