

Managing risky views

The worlds of planners and insurance practitioners do not collide very often. Just now, in London at least, they seem to be on trajectories that might prove destructive for the property world, says Bill Gloyn.



Bill Gloyn is Partner, Real Estate, of insurance brokers Jardine Lloyd Thompson and President of the City Property Association.

It is the London Views Management Framework that is creating the problem. Not a new one, admittedly, but one that I do not believe has been widely appreciated before.

Perhaps it would have stayed that way this time had it not been that, in my role as President of the City Property Association, I decided to read the consultation document issued by Mayor Boris that seeks to widen and add to the protected view corridors set up by his predecessor.

Even Ken did not invent the concept. It had been around for many years - protecting the views, both from near and far, of certain strategically important buildings. As was discussed in the detailed articles in *PiL 70*, these buildings are primarily the Houses of Parliament, the Tower of London and St Pauls Cathedral.

Actually, in the last revision under Ken's direction - only effective from 2007 - the views had been somewhat narrowed. This allowed the potential for more of Central London to be redeveloped. In particular, it gave scope for many existing, second-rate, buildings that were previously at or near the top of the view plane to be demolished and redeveloped to an increased height - essential to create the additional space and consequent rental income needed to justify the capital expenditure.

Not so under the new proposals. It has been estimated by consultants GMJ - with whom my company has been working closely to identify which properties are at risk - there is an increase of some 35 per cent of the land that is now only capable of restricted development, if any at all.

That is not all. Section 57 of the LVMF consultation document made it clear that the Mayor expects to see all existing buildings that offend the Framework removed over time. That includes any buildings in the

"shadow" of offending buildings - to preserve the viewing corridors for when the existing buildings disappear. Any such buildings that are demolished will only be given planning permission for replacement within the revised guidelines.

And that is where planning and insurance are now on a collision course! Not that they haven't been before - it's just that no-one seems to have noticed it. For decades there has been a fundamental contractual requirement for insurance to be arranged on a reinstatement basis. That applies to the most important contracts applicable to real estate - leases and funding agreements. Those contracts will have a corresponding obligation - generally on the owner - to reinstate the damage or building if it is destroyed. However, reinstatement will not be possible for those buildings offending the LVMF. Dependant on how big the building is, a considerable proportion of it may be sacrificed.

Another element of property insurance is to protect against the loss of rental that follows damage, during the period when the tenant enjoys a suspension of rent until the repairs are complete. That cover is for a set period of time - often limited to two or three years. However, in the case of an offending building, the period of the loss of rent will be infinite. So, we are faced with the situation where the traditional insurance regime is no longer adequate. The actual loss, in the situation of an offending building being destroyed, will be for the reinstatement cost of what can be built and at least part of the investment value - generally considerably higher. However, it is not that sum which is currently insured.

In addition, in the current real estate market, the investment value of a property destroyed today is

likely to be far less than when it was purchased, if that happened in the heady days of the last property boom. Even if the basis of cover was changed from reinstatement to investment value - itself difficult as the whole practice of the property world would have to change - the interested parties could face a shortfall if investment values drop against the purchase price. That would disadvantage both the owner and the funder.

The failure to reinstate would also put the owner in breach of both leases and funding agreements - something that the other contracting parties might be happy to exploit - if cheaper rents can be found elsewhere or the loan is not as attractive as it once was.

There are insurance solutions that can be designed - basically on a property-by-property basis - to reflect the specific circumstances of each building. However, that will take time and effort - something that is not often given to insurance by those involved in property. As a "grudge" purchase, it often goes to the bottom of the long priority list - rarely to surface until a major claim occurs. But by then it may be too late for a property offending the LVMF, however it finally looks after the consultation.

Of course, there is another solution - working on the basic risk management principle that it is better to remove the risk than to try to mitigate it. As requested by the City Property Association, the Mayor should amend the policy to reflect that a building destroyed by an accidental cause - rather than by the choice of the owner - is exempt from the restrictions. That would introduce an element of fairness and deflect the clash of our two worlds which will otherwise inevitably happen.



Overview of draft LVMF by GMJ

Regulating London's skyline

The control of London's skyline through the planning system is a classically English muddle. This is just the quality that many of us admire in the built fabric of London itself, but is it a good idea to mirror this in planning controls? asks Peter Stewart.



Peter Stewart is principal of Peter Stewart Consultancy and a former director of design review at CABE

Livingstone's London Plan, and the associated London View Management Framework (LVMF), expanded the number of protected views of London from 10 (under the RPG3A controls brought in in 1991) to 51¹ – at the same time as introducing policies which (responding to the then prevailing zeitgeist) promoted tall buildings.

This is not inherently contradictory in theory, of course, but it has proved to be so in practice. While the LVMF promised to bring 'much needed certainty to developers and planners', a series of expensive public inquiries have suggested that this has not been achieved. St Paul's Cathedral, the Palace of Westminster and the Tower of London turn out to be located – guess what? – in rather crucial positions. And indeed if you project a line from any monument through any development site, you have a fair chance of finding a point on the other side where the view will change as a result of putting up a building, and those who have a mind to be upset at this kind of thing will be upset.

Last year's revised London Plan, issued in draft by Mayor Boris Johnson in October, proposes changes to the view management regime, and to policies on tall buildings. Confusingly, it was issued after draft revisions to the LVMF, which is meant to be a daughter document of the Plan.

Significant alterations proposed in the Plan (but after the draft LVMF came out) include adding a new protected view from Parliament Square across the Thames, and imposing more control over the view of Westminster from the Serpentine Bridge in Hyde Park. The views from Blackfriars Bridge have been omitted from the list – presumably so that it

can be claimed that the net 'burden of regulation' has not increased.

The changes affect some major development sites, but, in the manner we have come to expect in the UK, they ignore the normal English usage of the word 'planning' by reacting to rather than anticipating development proposals.

The Parliament Square view affects the area around Waterloo Station, including Allies and Morrison's Three Sisters tower scheme recently refused planning permission after an inquiry. Unlike other protected views which concern themselves with World Heritage sites (Westminster and Tower of London), this is a view from, rather than to, a WHS. As there are views covering all 360 degrees of the compass from any WHS, one has to wonder where all this will end.

The view from the Serpentine Bridge to Westminster affects plans for further tall buildings at Elephant and Castle – the sites for some of these lie bang on the alignment in question. The residential tower by Hamiltons under construction there is clearly visible from the bridge, but it is hidden by trees if one chooses to stand at the exact designated 'assessment point'. This is not a very good view of Westminster. Whenever I find myself on the bridge, I look for others admiring it, but I've never seen anyone doing so.

Several other geometrically defined viewing corridors are to be widened, restricting development opportunities elsewhere. There are a few views – the most important – where there is strict geometric definition which prevents buildings from being erected in front of the protected monuments: a system much the same now as when first developed in RPG3A in 1991. The rigour of this part of the regime

mirrors that of the separate system of St Paul's Heights restrictions in the City, dating from the 1930s, which receives far less attention than the LVMF.

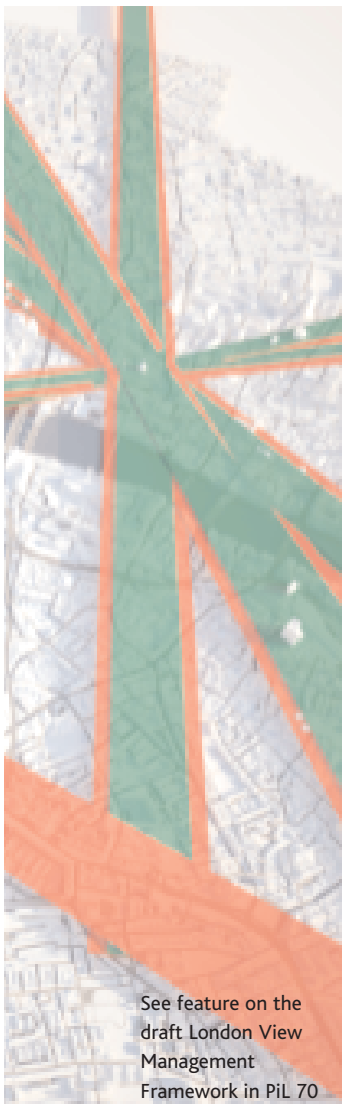
This is probably because its rules are non-negotiable. Most of the rest of the LVMF is a bit like the Pirate's Code in *Pirates of the Caribbean*, which turned out to be 'more what you'd call "guidelines" than actual rules'.

Much of what the LVMF purports to control is negotiable – a good example of the rule that the longer planning documents are, the less precise they are. And because the zone of uncertainty is so great, it is worth developers' while to enter into protracted processes, ending at inquiry if necessary, to see how far the boundary can be pushed. Architecture suffers as the brief expands or contracts on the hoof, according to the progress of negotiations.

The lack of clarity in the policies seems likely to be connected with the fact that there is no consensus about the future of London's skyline, and very strongly held views at both ends of the spectrum.

Perhaps reflecting a wider cultural position, we don't seem to know whether to look to the dynamism of New York or the stasis of Paris for the best way to regulate the skyline: both have their advocates. Yet I suspect that in either of those cities, if you want to find out what you can build, you simply look it up in a book.

¹ There are 26 'views' listed, but more than one view is designated under most of the places in the list.



See feature on the draft London View Management Framework in PiL 70