

LONDON PLANNING & DEVELOPMENT FORUM

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Minutes of the Meeting of the Forum held at GLA City Hall The Queen's Walk, London SE1 2AA, on Monday 4th March 2013 at GLA Committee Room 4 between 2.30-5.30. Our host was Colin Wilson, Senior Manager - Planning Decisions.

Attendance:

Brian Waters: Chairman
Alastair Gaskin: Reagh Consulting
Alfred Munkenbeck: Munkenbeck + Partners
Andrew Rogers: Association of Consultant Architects
Bob Dolata: Formerly London Borough of Hackney
Brian Whiteley: LB Hillingdon
David Bradley: Former Honorary Secretary
Duncan Bowie: University of Westminster
Giles Dolphin: Formerly GLA
Jonathan Manns: Colliers and RTPI
Judith Ryser: Isocarp/Ugb/Cityscope Europe
Lee Mallett: Regeneration and Communication
Michael Coupe: London Society and Coupe Planning
Miranda Housden: ICE and Former RIBA
Michael Bach: London Forum
Roy Pinnock: SNR Denton
Sizhe (Helen) Chen: UCL and guest of David Bradley
Tom Ball: London Forum
Drummond Robson: Honorary Secretary and Robson Planning

1. Introductions and Apologies.

The Chairman welcomed those present notably the three speakers: Michael Bach, Lee Mallett and Roy Pinnock.. Apologies have been received from Dalia Lichfield, Martin Simmons, Michael Edwards, Peter Eversden, Sir Peter Hall, Ron Heath and Tim Wachter. Emma Fitzgerald and Riette Oosterhuizen are both on maternity leave.

2. DISCUSSION TOPICS

First Discussion Topic: An informal debate with the Proposition “**Making Offices to Residential Permitted Development will assist in Revitalising London and its Economy.**” Offices to Residential. Permitted development rights– revitalising London Communities or undermining the Structure of a Planned Capital?

The Chairman introduced the item – explaining that two of those invited had declined at a rather late stage and so the formal debate was instead to be more informal with one speaker for (Lee Mallett) and one against (Michael Bach) the government’s proposition of allowing offices to residential as permitted development.

Lee Mallett said he strongly agreed with deregulation since in the 1980s some artists friends sought to ease UCO restrictions but against strong opposition from Hackney with the result that in the late 1980’s all the buildings around Hoxton Square were unused. The raw commodity of buildings work better when they are used. The 2011 census last year demonstrates the undersupply of residential accommodation in the Capital. He likened the present situation to trying to persuade woolly mammoths to a frozen tundra. The Isle of Dogs removal of planning controls would not have produced the present quantum and vibrancy of space without deregulation. It is clear that more housing is needed which the planning system fails to see. We need new housing investment to get the Country moving out of recession. There is currently a huge impasse between housing and offices with developers reluctant to invest in offices when they can see that residential values are so much stronger. Overseas investment too would be willing to invest but are reluctant to do so simply to provide more offices. Investors and Olympians said LM take rational decisions. There is nothing new in offices becoming full of oligarch in palatial surroundings. Middle range property is now starting to grow, associated for example with Crossrail and spreading out from these developing nodes. The same needs to happen in town centres with a ripple effect from both central and suburban centres.

Building and fire regulations will still need to be met under this deregulation. In spite of this nearly every London Borough wishes to seek exemptions from the lifting of this restriction.

The simple fact that planning is not delivering enough housing is proof enough that the rules should be relaxed.

Michael Bach spoke as a former government policy analyst. He began by asking whether you are likely to get the outcomes you expect. Advocacy comes out of political values. The change we propose to make is potentially damaging for London. Geoff Marsh advocated a change of use in the 1990s. If buildings were not being used for offices they should be allowed to be used for residential accommodation.

4,000 dwellings are being built a year as it is, so 20% of the necessary completions are happening anyway. Examples of conversions already taking place include Bowater House and Charles House in Croydon. Portland House in Victoria is another example. The global idea for England was “sold to Number 10 and The Department for Business, Innovation & Skills (BIS)” though not welcomed by others. Even BPF did not like it as a policy issue to grant permission unless there are strong economic reasons for not doing. .

It is claimed there is a lot of vacant office space. Much of this is needed to allow the market to flourish anyway. The average London vacancy rate is currently below 8% and in Westminster it is 5%. Changes of use cannot distinguish between occupied and vacant offices anyway.

The proposed pressure for conversion is preferential treatment. It does not require any contribution to CIL or an affordable housing requirement, thereby distorting the market.

Between 2000 and 2010 the Royal Borough of Kensington and Chelsea lost 30,000 square feet of offices to residential and Westminster lost 47,000 between 1997 and 2007.

Conversions are more likely on lease expiry. It is estimated that anything up to 60% of RBK and C’s office leases are due to expire in the next three years. The most worrying aspect to this is the planning problem of a threat to business clusters.

Town centre first policies become hot air if there is significant office loss there. This lacks a proper understanding of town centres as drivers of the local economy. In London outside CAZ 50% of jobs are within 500m of town centres. Unlike in 1997 when the permitted change was from workshop to offices this is a one way trip to housing, offering short term construction jobs only with longer term displacement of jobs and will undermine the vitality and viability of town centres. It will displace rather than provide growth.

Discussion. Alfred Munkenbeck opened the discussion saying that Michael Bach was measuring success against a starting point of “last year” rather than 100 years ago before any of the present restrictions were introduced. Planning is needed to prevent the market going off the rails when you have enough housing. At present we do not so that providing it will allow falls in value, reduce the need for affordable housing until a new equilibrium is set with offices.

Roy Pinnock thought that the choice was like those expressed by Llyd and others – a choice between failure and perfect failure. We are not talking about mediating since it is an imperfect market. Much depends on how this is prepared for. Where there is redundancy in buildings it should be allowed to happen, though clusters in offices should be a valid objection. However Councils are being given three weeks to respond which is simply not enough.

Duncan Bowie said that much of the debate is theoretical. It is based on a plan based mechanism or by exemption. The responsibility of planning is not to react to the market. This is likely to lose employment without necessarily leading to a growth in housing. We should be increasing housing supply without introducing another form of investment resulting in inappropriate provision. It is likely to produce flats for the upper end of the market only. Much will be spent on providing housing which is not needed. We should ask who will it be for, who will use it.

Alfred Munkenbeck said this missed the point since more housing will release property elsewhere to respond to the needs of others, with supply and demand being allowed to reduce the overall need, especially for affordable housing.

Judith Ryser made comparison with Wilson’s Location of Offices Bureau and “The Brown Ban” – Office Development Permits forcing up values by increasing office scarcity, leading to all the problems of harassment of people who did not want to go. This should not create a precedent.

Giles Dolphin said he supported both sides. What he asked does the policy solve. Is it a shortage of housing or poor quality offices? Planning can only address enabling housing supply but other factors such as banks and mortgages could still restrict the supply being realised. Planning permission is currently needed to change the use. If the proposal is sensible it is unlikely to be resisted anyway. He cited the examples of plan led housing growth such as industrial buildings being replaced by housing

in Vauxhall or facilitated in Brent Cross or Thames Gateway. The danger is unintended consequences of for example insufficient school provision or the overstretched NHS. In this case both police and TfL have concerns. It is right to question automatic change of use. The new policy could work well in the suburbs. In relation to the Central Activities Zone GD thought it would be appropriate to exempt the City and Westminster. Offices are perfect in some places so matters should be dealt with on a proper planning basis.

Brian Waters was concerned about blanket exemptions and suggested this was a missed opportunity simply to protect office clusters. Three weeks is too short a time to work this out.

Lee Mallett said that several industrial clusters have been established elsewhere such as Croydon. This is not the result of planning but decisions by the market. Brian Waters agreed saying that in Shoreditch it was planning restrictions which resulted in a desert in Hackney to the north of it which resulted in his practice having to negotiate some 250 live-work units in order to find some use for the buildings or area.

Roy Pinnock said that the proposal exempts schemes from having to provide affordable housing or CIL contributions which would be losses to the public sector.

Lee Mallett said that these were taxes that are preventing development taking place. Allow the investment to take place and the money will flow. Duncan Bowie held the opposite view that the government is trying to achieve housing without finding the funding for it. Alfred Munkenbeck however saw government housing as the problem rather than the solution.

Brian Waters acknowledged that the market will pick off the best bits first, although this can go too far. He cited an area of Southwark where there was an industrial zone with some 40 predominantly evangelical churches was proving difficult for the market to develop, but which was helped by an inhouse planning team. This said the proposal has been modified from B1 to C3 and is now B1(a) to C3.

BW was also concerned about the limitations on live work imposed by VAT registration and capital gains tax threats which inhibit home working. These risks should be reduced. Duncan Bowie suggested that the mechanism to achieve this is a Local Development Order. BW countered that these are not used in practice.

Tom Ball was critical of planning for having predicted housing need was failing to provide it. Both main political parties do not seem to understand what planning should be about. The present gestures will do nothing to prevent rioting in 5 years' time when the housing pressure is still too great. The proposals by Land Securities to convert Portland House to residential is because to upgrade the offices would cost more. The addition of some balconies and other cosmetic changes will not contribute to London's infrastructure nor provide for the currently resident population for whom the new flats will be unaffordable.

Roy Pinnock said however that most schemes will however still require permission for works resulting in associated conditions and obligations. He thought that a further source for housing growth would be by shrinking back town centres oversupplied with shops.

Mirand Housden thought that the current housing crisis will not be helped significantly by the proposed new measure.

Michael Bach said the experience he had gained from a research paper he commissioned was that to achieve the desired result would mean relaxing the system over such a wide area and for such a long time that it would be politically unacceptable. In practice the proposal in three years will do little to ease the housing shortage or assist the economy. BW disagreed saying its benefit would be in a release of value. MB thought that paragraph 51 of the NPPF would achieve this.

Alfred Munkenbeck saw it more simplistically as reducing employment and providing more housing where the market chose to do it. He could therefore not see the problem.

The discussion was drawn to a close at this point.

Second Discussion Topic

Pros and Cons of Development without Adopted Development Plans almost no Guidance and with re-simplified application forms: a general discussion of planning regulation: The Chairman welcomed Roy Pinnock of SNR Denton to introduce the item.

Roy explained that the law firm, formerly Denton Wilde Sapte is now SNR Dentons and is likely to become simply Dentons.

He said that now with little guidance adopted development plans were likely to "go pop", although London had the nuclear shelter protection of the London Plan.

In general the amount of environmental regulation is out of control and the government's argument is that this should be ignored in favour of entrepreneurship and positive planning. The critical task is to break down this entrenched position to improve the quality of development with better plans and better value from the system.

The requirement is for up to date plans, as prescribed by the National Planning Policy Framework (NPPF) which is itself something of an oddity seeking to put a gloss on the statutory regime. Adopted development plans are now subject to this to take account of those things which the decision maker considers important. It replaces the approach by Labour which was well meaning but turned the process in a pseudo science and took far too long, almost missing a complete development cycle. Many local plans are now out of date against NPPF criteria. They do not meet housing needs in full for the whole of the plan area or for the complete development cycle. The emphasis is moving towards providing adequate infrastructure planning, in the form of CIL. The two examples of Wandsworth and Mid Devon however seemed planned to fail since CIL is likely to be at the expense of viability or adequate provision of affordable housing.

RP described the Linden Homes Bromley case (See Outlaw description below)

“House builder Linden Homes applied to modify part of Bromley's development plan, which sought to limit the number of units on a railway site despite a bank report concluding that Bromley's proposed figure was financially unviable.

Linden Homes owned land at the 'Railway Site'. The Inspector's report concluded that the development plan was "sound" and did not consider the evidence from a bank report which rendered the 250 unit limitation on the railway site financially unviable.

Although the bank report gave evidence to show that 250 units would make the development unviable, the Inspector concluded that if 250 units were built, the local authority's overall housing targets would be met. The local authority subsequently adopted the plan.

Linden Homes argued that the development plan was not sound because it was financially unviable. The developers further argued that the Inspector had failed to take account of the evidence base in reaching his conclusions.

The court ruled that the development plan was not sound and would require modification to make it compatible with the statutory requirements.”

RP questioned whether the plan generally delivers on its promises – is it planning to fail or to succeed.

A key requirement of the NPPF is the duty to co-operate (156, 159 and 178-181) The North London Waste Plan fell apart for failing to do this. Leicester and Northamptonshire are not agreeing to co-operate. This will become an issue after the NPPF's first birthday on 27th March 2013 when little weight will be given to adopted policies. Paragraph 215 says that where there is a conflict with NPPF after then use the NPPF. Paragraph 14's presumption in favour of sustainable development will tilt schemes more in favour of permission since the definition excludes the first three pages including the Brundtland dictum.

By contrast SPDs do not have to be scrutinised in the same way as DPDs. In the Wakil case what was claimed to be an area action plan was considered by a judge to be in fact part of a DPD. Many authorities are aware of this. Hammersmith and Fulham cancelled a lot of guidance but following the Taylor report it is likely this will come back. Formerly there was far too much guidance now there is too little. PPS1 2005 guidance is still there even though PPS1 itself is not. Viability and vitality of town centres is still there from PPS4.

The mayor's CIL has been severely criticised by Stephen Ashworth on viability grounds.

Eric Pickles was forced to review abolition/revocation of regional plans in the light of the Cala Homes case.

Simplification of planning applications. Outline applications have recently been made easier and no longer requiring detail layout and scale. Environmental impact however still remains a challenge.

A severe emerging question is the staffing of development management teams and the capacity of local authorities to undertake this work. Planning performance agreements are increasing the scope of application work to be undertaken by the private sector.

Andy Rogers asked about a case in Tewkesbury of prematurity where permission was granted for a scheme which the judge considered would not prejudice the emerging core strategy since the Council had not demonstrated a five year housing supply.

Michael Bach thought that what Roy Pinnock had described showed an argument for slowing down. Too much guidance is giving way to a rag bag. Experts are saying we do not need this in their desire to attract growth. He asked that where the NPPF is silent on something where do people look for guidance – suggesting that they turn to previous guidance.

Mike Coupe thought PPGs and PPSs to be very valuable and that Taylor was looking at restoring these as part of local plans.

Infrastructure planning is becoming tougher and a growing requirement of the earlier stages of plan making. Councils are required to introduce their CIL regimes by 2014.

3. Minutes of Meeting held at The Town and Country Planning Association, Carlton House Terrace London SW1Y 5AS between 2.30-5.30pm on Monday 10th December 2012 and matters arising. These were accepted without amendment.

Treasurer's report.

The treasurer said that he had issued 24 invoices but had so far received on 5 replies. He asked others to respond as soon as possible.

4. Next Meeting.

The next meeting is to be held at Colliers 50 George Street London W1U 7GA on 10th June 2013. Jonathan Manns has arranged it and our host is Mark Charlton Head of Research and Forecasting.

5. Review of standing items.

The Chairman sought feedback on the yearbook. Forum members thought it good.

It was now proving too expensive to keep paying a printer for PiL and so it is likely that it will have to become an electronic version only, while relying on wider distribution of the yearbook.

Tom Ball suggested that the Big lottery should be explored since they offer funds and sponsorship.

7. AOB

Baljit Bains had indicated that following her previous presentation and having now left the GLA she would be happy to act as demographer in residence to the Forum. This was warmly welcomed.