

Freezing fees is not the answer

Westminster's Cabinet Member for the Built Environment Robert Davis thinks freezing planning fees will prove to be a false economy



Councillor Robert Davis DL
Deputy Leader of Westminster
City Council and Cabinet Member
for the Built Environment

It was with great concern that I read the recent proposals by the Right Hon. John Healey MP, the Minister for Housing and Planning, pledging to freeze planning fees for 2010/11.

The proposals are frankly short-sighted and likely to have a serious impact on planning departments and the processing of applications across the country. At a time when all local authorities are feeling the squeeze of reduced funding from, freezing planning fees will result in further staff reductions and fewer staff able to advise, support and determine proposals. All of these will lead to delays in planning applications proceeding to the development phase and becoming reality.

This is particularly relevant to Westminster. We are currently on course to receive more than 10,000 planning applications this year, making Westminster the busiest planning authority in the country, and representing an increase in applications from 2008/9. In addition to these planning applications, we also receive more than 2,000 listed building applications annually, to which no fee is attached.

In a complex cityscape such as Westminster, many of the applications concern high profile, extremely challenging sites, which require considerable staff time and expertise. Continued interventions by central government, a government which talks the language of localism but which dictate terms to local authorities at every opportunity, limits their ability to plan ahead with any financial certainty and deliver the quality service that developers and architects rightly expect.

This has also been evidenced in recent days with further government plans passing onto the statute book to limit the fees for extending planning permissions to £500 for major developments and £50 for householders. This will only serve to place even more restrictions on local authority finances and allow sites to remain vacant and undeveloped for longer periods of time.

As a local authority we have and always will refrain from overburdening developers and householders. In fact, local government now boasts a strong track record, sustained over many years, for delivering efficiency gains and value for money that is the envy of central government.

I can therefore only conclude that the Minister for Housing and Planning's pledge is short-sighted, evidence of his failure to understand the development industry and likely to cause unnecessary delays in determining planning applications. ■

Conservation policy updated

Jones Lang LaSalle's Jeff Field explains the long-awaited PPS5 which unifies historic parts of planning guidance dealing with our historic environment



Jeff Field is director of planning
at Jones Lang LaSalle

The new PPS5 has brought together two of the oldest parts of national planning policy guidance – PPG15 (1994) and PPG16 (1990). The new PPS5 entitled *Planning for the Historic Environment* does what it says on the tin and sets out planning policies on conservation of the historic environment.

Early speculation on the draft was that it gave developers the upper hand. The conservation lobby went into action, as did the RTPI. The property sector could not understand their complaints, as it seemed to give greater heritage protection.

Despite economic conditions, no one could see the government 'U'-turning on years of established conservation policy, but there are some new twists and turns. The outcome is just twelve policies with further explanation and guidance (*Planning for the Historic Environment Practice Guide*). These cannot be called the 'Great Twelve' because they are, as promised, short and to the point. These will be hotly contested because as always there remains room for interpretation.

Presumption in favour of conservation (HE9)

The key message is the return of 'presumption in favour of the conservation of the designated heritage asset'. This presumption does not apply to all heritage assets but only designated ones. In the draft, the development lobby objected to

the widening description of heritage asset where local authorities could conclude something is of significance. Further guidance on what is a designated heritage asset, or merely heritage asset is now provided in Annex 2 to the PPS.

The significance of an asset (HE7)

'Significance' is also now clearly signalled in the PPS and this helps to secure a balanced approach to development management. Gone are the days when conservation officers could try to protect every aspect of a building (unimportant or otherwise) or of a conservation area. They are required to set out what is significant, as are applicants, and then to justify the approach. The greater the significance the greater the support there will be for the preservation of the asset.

Development management policies

Only half of the 12 policies will have real impact in the determination of proposals. The others are reflected in other forms of national policy, provide new procedures or create additional burdens for local authorities.

One such burden is for an evidence-based approach by local authorities – if they want to preserve an asset then they should have it identified on their historic environment record (HER). Also of positive note is the request for local authorities to help applicants to find feasible solutions where there are conflicts between conservation and change.

The government's objective remains as sustainable *continued on p.8*

 OPINION: THE MAYOR'S TRANSPORT STRATEGY

Without due care and attention

Brian Mooney of the Association of British Drivers doesn't think much of the draft Mayor of London's Transport Strategy which is short on common sense

Ken Livingstone has speculated that Londoners voted in Boris Johnson as mayor in expectation of a more enlightened transport policy.

Boris' first big test was the revision of the previous Mayor's Transport Strategy. The draft document came out for consultation in October last year amidst a short burst of publicity. However, despite Transport for London's sprinkling of bland tube posters and newspaper adverts, it simply didn't register with many people that they had only until just after Christmas to have their say on proposals that will shape the next twenty years.

If the document seeks to improve 'transport opportunities' for everyone and to promote road user satisfaction, then it does so rather strangely. Motorists might have hoped for better from Boris, not least as he had seemed to abandon the policy of discrimination from the Livingstone era whereby some transport users were regarded as more equal than others, with the motorist at the bottom of the heap. A TfL pamphlet *Help Shape London's Future* had a response form with a leading question on 'demand management... a fair system of road user charging to reduce congestion'.

Congestion Charge disappoints

The Congestion Charge has not lived up to its hype, with congestion returning to pre-charge levels. Road speeds have been reduced by the previous administration's 'transport improvements', such as removing road space for bus lanes, or re-phasing traffic lights. Many people would see it as unfair to charge motorists for the privilege of driving in congestion, particularly as they have already paid five times over through various taxes. The document at least proposes to remove the Western Extension Zone of the Congestion Charge, something which should never have been imposed against the wishes of the majority. However, it also holds out the prospect of extending the Congestion Charge across the capital, and one graphic even points to a London-wide charge. It is ironic that the current mayor has been quoted as saying that he wants to make it difficult for his successor to introduce congestion charging, yet his document seeks to provide an enabling mechanism for extending it.

Emissions: the Richmond lesson

The strategy also proposes parking charges based on carbon emissions and seems to have learned nothing from experience in the London Borough of Richmond, which has seen 92% resident opposition, and a petition from over 3,000 shopkeepers rejected. Besides, simple logic holds that parked vehicles do not typically generate 'carbon emissions' If it was so crucial to reduce emissions, surely neither the current, nor the previous mayor, would be laying on large-scale fireworks displays such as for the Thames Festival and New Year's Eve.

continued from p.7 development and it recognises that intelligently managed, change may be necessary. A further twist is that the PPS will support proposals where substantial public benefits outweigh the substantial harm or the loss of the asset. This is new and provides a degree of pragmatism for planning committees and officers.

Climate change

Policies HE7 to HE11 will be most important to how applications will be determined, but HE1 on heritage assets and climate change could provide another new twist. Studies have shown some older parts of town produce massive

Cycle-mania

Other proposals are short on detail. For instance, why should it be necessary to restrict car access in residential neighbourhoods 'where possible' to give preferential treatment to cyclists? The proposal to let cyclists ride against oncoming traffic in one-way streets 'subject to a change in the Highway Code' also goes against common sense. It stands to reduce available road space and slow down vehicles. Intuitively, it will result in accidents and greater frustration and antagonism amongst road users.

It is a strange system of 'demand management' that proposes to take away scarce road space from the drivers who pay for it, while artificially trying to stimulate more demand for cycling.

Let's go potholing

While tens if not hundreds of millions of pounds are being spent on this, the same emphasis is not being given on ensuring transport authorities – Transport for London and the boroughs – maintain a decent road surface and engineer out potholes. Perhaps the biggest clanger is that in a document of 23 megabytes and 354 pages, you won't find the words 'snow', 'grit', 'icy road', 'frozen', etc and weather is only mentioned in the context of 'climate change'

There is of course plenty on the things that bureaucrats are interested in, like road user charging policies to adapt to global warming. While they go on about 'warmer winters', many ordinary Londoners and commuters would just like some action to keep their trains running, or keep their road or pavement passable in the harder winters we have been suffering!

Under the Climate Change Act 2008, the mayor's office must assess the response to changing climate at least every five years, and real world conditions must be more important than selective computer models. There are some positive-sounding ideas for targeted engineering to improve road safety across London's road network, but more detail would have been welcome.

Association members respond

In spite of the cold and wet weather, ABD members got tens of thousands of leaflets out to the public, supplemented by press releases and viral emails. The response we got was overwhelmingly positive.

Although the consultation is now officially closed, ABD encourages those who travel in London to share their views with the Mayor. ABD's official response and research can be found on www.fairdealabd.org.uk ■

Brian Mooney is London Media Spokesman for the Association of British Drivers

carbon emissions – comparable to all new developments throughout the country. The new policy states the public benefit in ameliorating climate change should be weighed against any harm to the significance of the heritage asset.

Place-shaping and enabling development

Enabling development is not new to conservation but the ability of applicants to help 'place-shaping' is an acknowledgement that certain types of heritage assets can have this effect. Both of these concepts try to put conservation into the wider effects for the public. Enabling a positive contribution to be considered is at last a progressive way for moving forward with better public places. ■

Unworkable invitation to abuse

Denton Wilde Sapte's planning consultant Stephen Ashworth is not impressed with several aspects of the new Community Infrastructure Levy (CIL) regulations



Stephen Ashworth is Planning Consultant for Denton Wilde Sapte LLP.

The Community Infrastructure Levy Regulations came into force on 6 April 2010. They will provide a framework that will allow planning authorities to bring forward CIL, a process that is likely to take 12 months or more before the first CIL charging schedules are ready for adoption.

Whether authorities chose to prepare schedules may depend in part on their view about the prospects of a Conservative win at the next general election and in part on whether they believe the Conservatives will abandon, rather than adjust, CIL. In fact a system like CIL will, almost inevitably, emerge even if there is a new administration.

Across-party policy

The Conservatives supported CIL when the Planning Bill was being promoted. The structure of CIL was, astutely, built by CLG in collaboration with a cross-sectoral group. That group, which included the Home Builders Federation, the Local Government Association, the British Property Federation and the Planning Officers Society, will probably press the Conservatives to adopt broadly the same model. Authorities should prepare; the work will not be wasted regardless of what future government we get.

A simple system – in theory

At its heart CIL is simple. Planning authorities will identify infrastructure costs arising from proposed development within an identified area. After deducting assumed public funding there will be a cost to allocate to development on a per metre basis. This will be published in a charging schedule that will be subject to public examination.

With a few exceptions, whenever anyone implements a planning permission they will be required to pay a CIL charge for their development. This should simplify the planning process making any required off-site infrastructure contributions transparent from the outset. CIL builds on the approach adopted in many adopted tariff regimes with a few critical differences; three are worth exploring since they go to the core question of whether CIL is genuinely workable.

Mis-calculating impact

At the moment it is unclear how authorities should allocate the infrastructure cost to development. In tariffs the cost has always been tied back to a crude assessment of impact. For example, how many children will live in the proposed houses and what school requirement will that produce? What transport demand will the new offices create, and what infrastructure will be needed to support it?

The legal requirement to tie a contribution to an impact has meant there is a clear equity to tariffs – development is paying for the impacts that it is causing. At the moment the CIL Regulations are silent on the basis for sharing costs.

The last pronouncement from CLG, in August 2009, suggested that costs should be allocated solely according to viability. A high value development with no impacts will be required to pay significant amounts simply because it can

afford it; a low value development with high consequential infrastructure costs would pay little. If followed, this would be fundamentally unfair; CLG's approach will need to change.

Unworkable, inflexible

Second, tariffs are only one element of a balanced planning judgment. Planning authorities, rightly, consider tariffs on an application by application basis. If the imposition of a tariff contribution would prevent a desirable development from going ahead then the planning authorities will often negotiate. Recent economic circumstances have stressed the importance of this flexibility. CIL lacks the same flexibility.

It is mandatory and cannot normally be tailored to events. The regulations allow authorities to have an 'exceptions' policy for schemes that might not be viable if CIL is paid, but the regulations are so hedged with conditions that the exception is almost useless.

The exception only applies if anticipated in the charging schedule. It only applies if there is a planning obligation that costs more than the CIL forgiven. The exception is lost if relief for social housing is claimed. It only lasts 12 months and can only be applied for by the site owner.

The process is unworkable. It would be far better to trust local authorities and allow them to decide, as they do now, whether there are good reasons to tailor the CIL burden.

S106 rules invite abuse

Third, the approach adopted to section 106 agreements in the regulations is weak and invites abuse. The past 20 years has provided clear evidence of planning authorities exploiting the freedom offered by the wide scope of section 106 itself and the lack of any clear ability by CLG to enforce the terms of the Circular 05/05.

The regulations do not close off that opportunity. Section 106 remains just as wide open and liberal as ever. All that is constrained is the ability of the planning authority to use the planning obligation as a direct reason for granting permission.

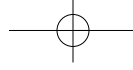
Few planning authorities will be so foolish to say that an obligation is being considered in such a way. A redrafted Circular will doubtless suggest restrictions, and will threaten overturning decisions on appeal.

Still time to make CIL work

In practice, as over the last 20 years, many developers will simply give in to requests for contributions rather than face an appeal. At least with tariffs, because they have been embedded within a planning system, there has been a natural containment of requests for overlapping contributions. With CIL working outside the planning system that constraint will be lost.

Although the skeleton of CIL is sensible and should be welcomed, some flesh on the bones appears diseased. To make CIL work, the basis for allocating infrastructure costs needs to be fair, authorities need to be trusted to agree exceptions on a case by case basis and section 106 agreements need genuinely to be cut back.

Refined in this way, perhaps by a Conservative administration who also set aside a proportion of the levy for community use, CIL could work. Happily the time needed for charging schedules to be put in place offers an opportunity to all parties to cure the ills. ■



OPINION: CARBON REDUCTION

Creating a low carbon industry

Engineer Scott Steedman welcomes plans to reduce carbon, but is the Thames Tideway tunnel a good example of this?



Dr Scott Steedman FEng
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The Government's Low Carbon Transition Plan published last July was heavily construction oriented, although until recently you could be forgiven for not noticing.

Now, with the publication of the Low Carbon Construction IGT's Emerging Findings Report on 17 March, we have the first substantive industry-wide response – addressing the sector through four major strands: housing, non-domestic buildings, major projects and infrastructure.

For the first time, carbon is beginning to emerge as a primary design determinant – a tectonic shift that could result in the biggest shake-up in construction design and procurement that we've seen in a generation.

Driving all this is primary legislation in the form of the Climate Change Act, which became law in November 2008. A few months prior, in June 2008, the publication of the UK Sustainable Construction Strategy had highlighted four key indices – Biodiversity, Water, Waste and Carbon. Then in July 2009, the Low Carbon Transition Plan targeted energy infrastructure, de-carbonising transport and energy efficient homes.

And now, following in the tracks of the car industry, the construction sector has its own Innovation and Growth Team developing strategy for a competitive low carbon construction industry.

So what? Two major impacts arise from this steady undercurrent of policy activity. Firstly, the focus on carbon is going to change the way that project solutions are selected.

Government departments now have carbon budgets and we in the sector will soon start to see the impact of this on design and procurement, as projects are assessed against both financial cost and carbon cost.

Putting carbon on a pedestal, however, has major implications for infrastructure. We don't have an industry-wide methodology agreed for attaching a volume of carbon to a given design. We do have a range of simple materials-based methods, primarily looking at direct emissions, but we do not have a

holistic through-life design approach that can reliably include the carbon benefit stream. We need this now.

And just as challenging, if carbon is a primary design determinant alongside cost, then is sustainability now a lower priority?

The assessment tools we use for judging sustainability of infrastructure include a raft of parameters, from neighbourliness and project management to water, waste and biodiversity. Carbon is also an important criterion, of course, but is it too diluted in the present mix to get the result we need?

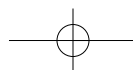
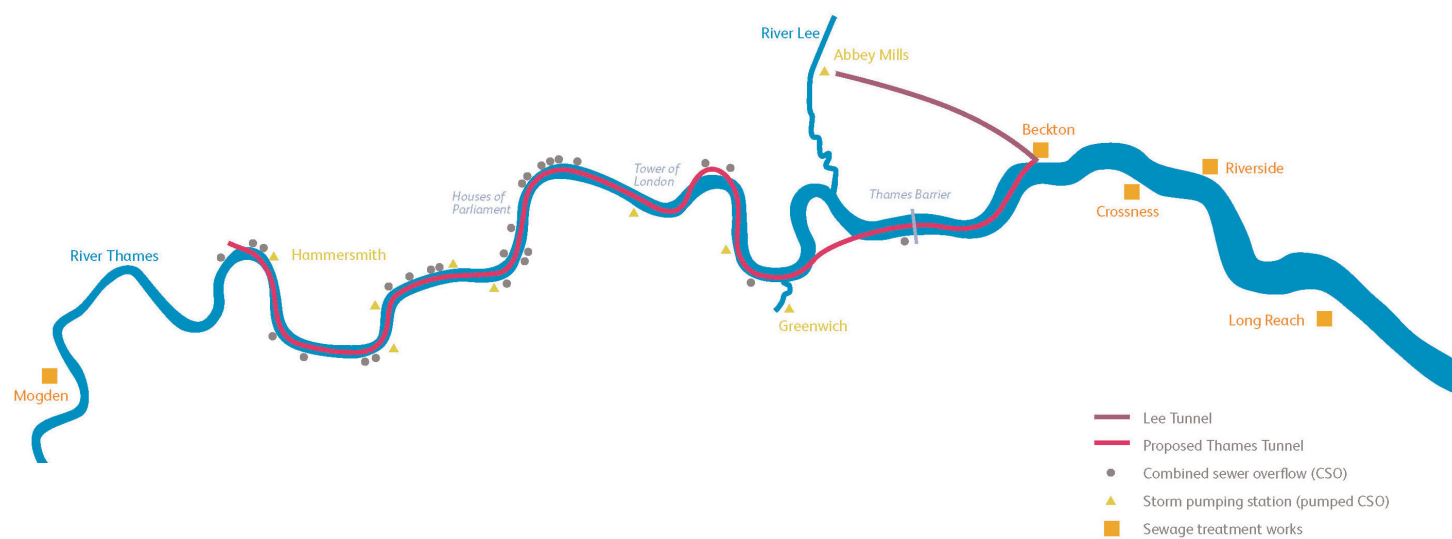
Consider the £2bn Thames Tideway Tunnel scheme. The project flowed directly from our implementation of the European Urban Wastewater Treatment Directive. Late last year, the European Commission announced that it will take the UK to the European Court of Justice over the wastewater situation in two localities: London and (in case you know it) the town of Whitburn in South Tyneside (population 5,235).

The Thames Tideway project would address the problem of overflow and future capacity in London, but at a significant cost – not only in money terms, but carbon. The main tunnel down the Thames is proposed to be some 35km long at a depth of 40 – 80 m below the river bed.

Even assuming that the embodied energy was low and tunnelling costs acceptable, for the lifetime of the project the wastewater from the tunnel will need to be pumped 80m back to the surface at the downstream end, creating a through life carbon burden that over the long life of infrastructure projects, is only going to become more and more onerous to offset. The Thames Tideway project may be an environmental triumph but would be a carbon disaster. Is this what we mean by sustainability?

The second implication is that the political imperative to address carbon emissions across industry is providing a stimulus for a transformation in productivity.

This is an extraordinary opportunity, such as we have not seen in decades, to drive improvement through the sector that we know can be achieved. More integrated working, improved regulatory drivers, better models for design and delivery and a much shorter innovation cycle have the potential to cut costs and improve delivery. Regardless of climate change, decarbonising what we do and how we do it is good for business. ■



A river runs through it – build on it!

Charlie Peel, author of *Facing Up to Rising Sea Levels*, offers some fresh perspectives on London's potential future relationship to its tidal river



LEFT TO RIGHT:
Portsmouth Retreats;
Portsmouth Defends;
Portsmouth Attacks

As we move further into the 21st century, one of the physical climate change predictions can be guaranteed: sea-level rise. As the oceans warm, they expand.

This is a problem for any low-lying land on the inter-tidal banks of a river. The problem is greater when £80 billion worth of assets are at risk, along with 1.25 million lives. There are several doomsday visions of London's watery future, from JG Ballard's novel *The Drowned World*, to disaster movies such as *Flood* (2007). However, there is a growing and increasingly optimistic body of work, looking positively towards a future with water.

Bearing this optimism in mind, we must return to the reality that human lives, billions of pounds and our key, strategic national infrastructure are all at stake. Of course London has the Thames Barrier: the defence system that has been operational since 1982. It has effectively protected London from tidal flooding more than 114 times. According to its operators, the Environment Agency, it is exceeding its original design life-time, as the engineers had planned for a faster rise in sea-levels. However, the defences do not stop at the barrier, but continue for miles upstream and downstream into the Thames Estuary.

All these defences will need to be raised throughout the twenty first century to protect against flooding, and there is currently insufficient funding.

Can we think more creatively about flood management, rather than the prevailing piecemeal approach lingering from the 20th century? The report, *Facing Up to Rising Sea Levels: Retreat? Defend? Attack?* was an inter-institutional think piece by the Institution of Civil Engineers (ICE) and Building Futures, the Royal Institute of British Architects' think-tank. When we looked at Kingston-Upon-Hull and Portsmouth as urban case studies, we approached them with our three hypothetical scenarios: Retreat, Defend and Attack. These warrant further explanation for their novel approach to urban flood management.

RETREAT

To retreat is to step back from the problem and avoid a potentially catastrophic blow. It is to move critical infrastructure and housing to safer ground and to allow the water into the city to alleviate harmful flood risk. This is different from abandonment as we propose a long-term planned and managed process. Is it possible and practical to retreat from an area of critical infrastructure?

DEFEND

To defend is to ensure the seawater does not enter the existing built environment. This will require built defences to ensure the standard of protection will be met in the distant future as sea-levels rise. Although currently an expensive policy to adopt, can the defences themselves be designed in a way to make them economically and even commercially viable?

ATTACK

To attack is to advance and step seaward of the existing waterline. There is massive development potential to be gained by coastal and estuarine cities by

building out onto the water. This further reduces the need to sprawl into the countryside and ensures their sustained social and economic vitality. For centuries other nations have successfully practiced building on stilts, using floating structures and reclaiming land. How can these practices of new aquatic developments be implemented in a sustainable manner?

These hypothetical scenarios were modelled into future visions of Hull and Portsmouth, two UK cities also at high risk from tidal flooding. The results all portray a positive future, but one that would only be possible if we act now. These results can be seen in more detail in the report found at: buildingfutures.org.uk. It was evident as we pushed all three scenarios to their extremes, that the successful solutions would most likely be a combination of the three. Retreat? Defend? Attack? provides a conceptual framework for thinking about the future of flood risk in a given site.

What would it look like if London chose to Attack? It's not a new idea! Should we return to the old London Bridge model: bridges inhabited and built up into street-scapes? Or is there enough space within the Thames to populate some pedestrianised islands? How can the existing communities of houseboats expand? And can these be redesigned for the twenty-first century to provide more comfortable, attractive (floating) homes to a wider audience?

Let's move some of the infrastructure onto the water as well – what if the water-borne transport network was increased sufficiently, and the canals could also host floating markets and restaurants?

At first glance there is something striking about all these proposed developments – not one of them will be damaged by a tidal flood. However, given the width of the Thames through central London, there is perhaps limited space for this. All eyes on the Thames Gateway! As the estuary widens drastically, there is suddenly vast potential.

The Environment Agency team working on the Thames Estuary 2100 plan, have identified that London may need a new barrier operational around 2075. The Mayor's office also scrapped plans in 2008 for a new, East London bridge. The Dutch succeeded in building the Oosterscheldekering, one of the Seven Wonders of the Modern World, a nine-kilometre barrier carrying a bridge. Could the UK ever take the initiative to exceed even this? What if we built a populated, tidally-powered barrier and transport link and started to build a community on the water? The problem lies with the UK's lack of any planning framework to think about these solutions. We are not ready for attack just yet, but this needs serious revision, soon.

In the immediate term however, the RIBA has produced a designer's guide to building within the flood zones. The Climate Change Toolkit: Designing for Flood Risk takes a design-led approach to addressing flood risk. This guide gives users a general understanding of the main flood risk issues, and an overview of policy and legislation as well as design strategies. Building Futures and the RIBA are working alongside relevant professional bodies address flooding risk. ■