



Pointmaker

PINK PLANNING

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SUMMARY

- The UK planning system is not fit for purpose.
- Today, the nation struggles with a chronic housing shortage and the costs associated with its unwieldy planning system do much to stifle economic growth.
- The mass of planning legislation is poorly understood. Even local authority planning experts complain they have difficulty coping with the workload generated by the planning leviathan.
- A complete consolidation and simplification exercise is long-overdue.
- But to facilitate immediate action, a simple and local solution to the planning quagmire is proposed: the creation of Pink Zones – dubbed pink because they provide a diluted regulatory regime compared with the red tape that characterises the current paralysed planning system.
- Pink Zones are intended to provide a simplified planning regime for the construction of vibrant, attractive and prosperous new residential developments underpinned by social infrastructure.
- In the past many housing developments were built in the UK by private entities – in some cases of a philanthropic nature, such as Bournville. Pink Zones could trigger institutional funding for investment in new housing – institutions such as life insurance companies, pension funds, sovereign wealth funds and charitable foundations.
- As it so often does, over-onerous regulation has had the unintended consequence of favouring large companies and limiting competition. This is true of residential development in the UK where a handful of large companies dominate the market. But Pink Zones would, by lowering the barrier to entry for smaller developers, enhance competition and enable a bottom-up approach to urban development.
- Pink Zones would thereby bypass many current planning regulations, improve design standards, would create more and better homes for people throughout the country and tackle the poverty of aspiration which typifies much residential construction in this country. People would be happier and the country would be richer.



SEVEN LEGISLATIVE PROPOSALS

1. **Pink Zones** will build on aspects of four existing planning mechanisms in order to establish a constructive legal framework to encourage attractive development.

The four mechanisms are:

- a) The **Nationally Significant Infrastructure Project** (NSIP) mechanism under the **Planning Act 2008** which offers a legislative driver that enables large-scale development on the back of a single streamlined consent mechanism, capable of taking account of local interests and national concerns at the same time.
 - b) Development mechanisms under Part 3 of the **Town and Country Planning Act 1990**.
 - c) Elements of the **Community Infrastructure Levy** (CIL), amended in order to incentivise development that provides mutual benefits for developers and for the wider community.
 - d) Aspects of New Town legislation, notably the **New Towns Act 1981**, employing an adaptation of legislative powers provided by that legislation with respect to planning and land-acquisition, as well as infrastructure development, but with expanded aims including modern expectations of sustainability, amenity and opportunity.
2. **Simplification:** the Pink Zone initiative will examine each aspect of existing planning controls to ensure that, in the reformed system, it is clarified and simplified to the fullest extent necessary.
 3. **Consolidation:** with the fragmentation of responsibilities for utilities and local services it has become necessary for proposed developments to engage with a range of separate consenting mechanisms. The complexity of these mechanisms can itself be a significant disincentive to large-scale development; the Pink Zone would draw at least some of the different consenting regimes together and provide significant streamlining.
 4. **Greater focus:** the number of opportunities for challenge and consequent delay at different parts of the development process and by different interests is a major source of frustration for prospective developers. A Pink Zone would focus review opportunities around one or more key points, ensuring that interests were considered properly and at the appropriate time without providing endless opportunities for delay and manipulation.
 5. **Incentivisation:** Pink Zones should ideally involve a modification of local government finance so that a higher proportion of the potential fiscal benefits of development are channelled directly to local residents, thereby correcting the current disincentives which deter local authorities from granting development approval.
 6. **Covenants:** the aims of simplicity and deregulation can be met in part by more creative use of existing legal mechanisms. For example, greater use of covenants could reduce the need for detailed planning by local authorities.
 7. **Compensation:** where it is inevitable that a development destroys or diminishes a private interest, and where design solutions do not fully address an issue, compensation should be offered to local residents.



“The urban growth of [Victorian Britain] was voluntary and owed nothing to state plans or regulations. It was driven by private initiative and speculation, directed by property rights, shaped and determined by market forces. The outcome was a process of urbanisation that was orderly but unplanned.”

Dr Stephen Davies, in *the Voluntary City*, University of Michigan Press, 2002.

1. INTRODUCTION

The UK planning system is an unwieldy morass. Poorly understood and divorced from economic reality, it has proved highly successful in restricting housing supply and inflating house prices to unaffordable levels.

Britain’s planning problems are well known. Land prices are alarmingly expensive due to excessively tight planning rules.¹ As a result, too few houses and flats are being built to meet soaring demand. If built at all they are often in the wrong – i.e. undesirable – location and new construction can be uninviting and cramped,² not to mention expensive. Furthermore, new build tends to be poorly served by infrastructure and invariably lacks amenities such as a garden – something many people desire.

The mass of planning legislation is poorly understood and hard-pressed local authority officials complain they have difficulty coping with the workload generated by the planning leviathan. Planning decisions take too long³

and a throng of planning consultants, lawyers and lobbyists have grown up over the decades to negotiate the hurdles erected by the planning labyrinth.

Planning in the UK is not fit for purpose. As a result, residential property development is simply not responsive to the market. Why should developers provide good, attractive new housing in greener locations with good light, gardens and served by a robust support infrastructure, if the planning system encourages them to build dull, small and unattractive houses? Today, the nation struggles with a chronic housing shortage and the costs associated with its unwieldy planning system do much to stifle economic growth.

Perhaps most concerning is the fact that, if asked, few people can point to an affordable new housing development which seizes their enthusiasm as a place where they would like to live.

2. PAST FAILURES

Previous governments have sought to tackle specific aspects of the country’s planning bottlenecks. Sadly, they have all failed to meet expectations.

2.1 The Town and Country Planning Act 1990

The Town and Country Planning Act 1990 was a consolidation Act, intended to provide a robust framework for planning law. It has been amended so many times since then, and partially replaced by so many other pieces of legislation, that planning law is widely regarded as one of the most technically complex and obscure areas of law.

¹ According to data sources for 2010 (the latest available), housing land in the South East was worth 430 times its value as farmland; closer to London, the ratio more than doubles to 925 times. See *Urban Economics and Urban Policy: Challenging Conventional Policy Wisdom* by Paul Cheshire et al, Edward Elgar, 2014.

² New houses in the Netherlands are 40% bigger and in Germany 38% larger than in Britain (not just the overcrowded South East region), see ‘Statistics Sweden, Housing Statistics in the EU’, 2005. What is more, UK household sizes are larger than either of these continental countries. See Paul Cheshire et al as above, page 93.

³ As Steve Morgan, the chairman of house builder Redrow, has remarked: “When I started in this industry, in the early 1980s, you would be able to get from outline planning permission to being on site in six weeks. Today, you’re lucky if you can do it in 18 months”. *The Financial Times*, 27 July 2014.



2.2 The Planning and Compensation Act 1991

Only a year after the 1990 Act it was thought necessary to pass the Planning and Compensation Act 1991,⁴ to enable developers to compensate local property owners for the costs associated with their proposed own developments. However, as Professor Paul Cheshire and his colleagues from the LSE have pointed out “the conditions under which compensation is payable are so complicated that in effect in England & Wales there is no system of direct compensation”.⁵

2.3 The Sustainable Communities Plan 2003 and the Northern Way 2004

Under New Labour, two initiatives – the Sustainable Communities Plan of 2003 and the Northern Way 2004 – were launched by the Deputy Prime Minister, John Prescott. Both failed to accelerate the construction of housing, instead acting as a catalyst for the demolition of Victorian terraces. New house building in England fell from 307,000 a year in the late 1960s to below 144,000 in 2003 and dipped to under 108,000 in 2010.⁶

2.4 The Planning and Compulsory Purchase Act 2004

While well intentioned, the Planning and Compulsory Purchase Act 2004 made matters worse by necessitating even more documentation and complexity. This legislation introduced a two tier system based on regional spatial strategies for English regions aimed at sustainable development. It did not prove to be

sustainable – spatial strategy planning was abolished following the adoption of the Localism Act 2011.

2.5 Eco-towns 2007

Gordon Brown launched a competition to develop ten eco-towns across England. These were meant to create new standards for energy consumption, use recycled building materials, and be largely car-free with an onus instead on pedestrian and cycle-friendly neighbourhoods. Seventeen sites were identified, four short-listed (including Whitehill Bordon in Hampshire and St Austell in Cornwall). However, none materialised and the initiative was scrapped.

2.6 The Planning Act 2008

The Planning Act 2008, modelled on the 2007 White Paper, *Planning for a Sustainable Future*, was a response to the mounting criticism of the inertia of the planning system. The Act aimed to speed up the process for major infrastructure schemes such as airports, power stations and transport schemes, primarily through the creation of a new body, the Infrastructure Planning Commission (IPC). This newly established bureaucratic body made little impact on planning delays. It was wound up two and half years after it was established on 1 October 2009 (It closed its doors on 1 April 2012). Its functions were transferred to another new entity, the Infrastructure Planning Unit within the Planning Inspectorate. The Development Consent Order (DCO) process is currently being used for a range of infrastructure projects – in which context it does provide an element of streamlining, but more by way of bypassing elements of the existing system than by simplifying it or producing a more consensual process.

2.7 New Homes Bonus 2011

The Coalition published the Final Scheme Design of its New Homes Bonus in February 2011. Under this scheme – whereby central

⁴ In particular, the Planning and Compensation Act 1991 amended the provisions of the Land Compensation Act 1973 about home loss payments, payable to homeowners on displacement due to compulsory purchase in specified circumstances.

⁵ Paul Cheshire, op. cit.

⁶ *Trends in the UK Housing Market 2014*, Office for National Statistics, 22 September 2014; Live tables on house building, Table 209, Department for Communities & Local Government.



government matches a council's tax receipts for six years when new homes are built – the Department for Communities and Local Government has set aside almost £1 billion to 2015, with the aim of providing an additional 140,000 homes over a ten year period. However, when the National Audit Office (NAO) conducted an appraisal of the scheme it concluded that little impact has so far been made. It recommended a rethink of the whole scheme. In its report published in October 2013 the Public Accounts Committee observed: "The Department has yet to demonstrate that the new homes it is funding through this scheme are in areas of housing need and the Department's planned evaluation is now urgent." These comments suggest a small carrot delivers modest results.

2.8 The Localism Act 2011

The Localism Act 2011 was intended to serve as a step-change towards greater decision-making at the local level. However the Neighbourhood Development Order system has failed to produce either a simpler or a more consensual approach to the development of residential areas,⁷ and the tax system continues to deter local authorities from approving development schemes as they derive little revenue from additional housing and commercial development yet are obliged to fund support infrastructure (roads, drainage, lighting, etc.).⁸

2.9 The Growth and Infrastructure Act 2013

Every year the size and complexity of the code of planning law is increased with more

attempts to solve specific problems through ad hoc solutions rather than with simplification. The Growth and Infrastructure Act 2013 is the latest example. Planning minister Nick Boles MP said that the Act "is a major landmark for the coalition government [which] will reform our economy so it can boost investment, growth and jobs by streamlining a lot of confusing and overlapping red tape that all too often gets in the way of people's everyday lives." But there is not a single free-standing provision in the Act that can be said to make planning law more simple or streamlined: every section amends one or more earlier planning Acts and introduces an additional layer of technical complexity.

3. JUMP-STARTING DEVELOPMENT

A consolidation and simplification of all planning regulation is long-overdue. However, it is unlikely that any Government in the near future will attribute a sufficiently high priority to such an endeavour for it to be commissioned. What is therefore needed (as in the case of DCOs) is a legislative delivery mechanism that side-steps the existing complexity, and allows specific objectives to be achieved in a streamlined and comprehensive fashion. This will allow local authorities to facilitate significant neighbourhood development much more efficiently.

It is crucial to ensure that in any major new development attention is paid to 'public goods' – such as urban parks, open spaces and wildlife habitat – as well as social centres that may be difficult to fund through direct private initiatives. Many academic studies have indicated that people may well be prepared to contribute to these non-direct benefits, since such amenities have been shown to have a positive effect on local house prices.⁹ After all, the Victorians

⁷ See, for example, 'Localism: what can we learn from the pioneer authorities?' *The Guardian*, 23 July 2012.

⁸ The Community Infrastructure Levy (CIL) goes some way towards mitigating the impact, but again its complexity – with no fewer than five sets of amending regulations since the first were passed in 2010 – invites circumvention and has made effective implementation difficult or impossible.

⁹ See academic studies cited by Paul Cheshire, *op. cit.*, chapter three.



managed to provide such public goods in an impressive fashion, as seen in Edinburgh's New Town and Pimlico and Belgravia in London – both developed in the mid nineteenth century – along with a wide range of new neighbourhoods in provincial towns and cities such as Withington and Charlton in Manchester; Eastbourne in Sussex; Edgbaston in Birmingham; and Southport in Lancashire.¹⁰

Post-war planning legislation was meant to provide both physical and social infrastructure for new communities but it was rarely delivered. Developers and house builders tended to concentrate on housing and ignored the provision of amenities and other social infrastructure. This pattern is only just beginning to change with the creation of some luxury developments in central London and the Home Counties, and via funding channelled through the Community Infrastructure Levy (CIL).

The aim of this report is to encourage institutional funding to provide investment for physical and social amenities as well as housing, either for sale or rent. These should prove wise investments since they will make new neighbourhoods more attractive – a place where people want to live. That was, after all, the motivation behind the creation of communal spaces such as parks and garden squares in the Victorian era.¹¹ But to achieve this objective central government intervention is required; in particular, it will not happen without the removal of regulatory and fiscal barriers.

A key point raised in the series of interviews for this study was that central government needs

to standardise arrangements for disposal of local authority and public body land.¹² National guidelines are required on how to assess housing demand. There is also an urgent need for a regional approach to how housing demand may be met through new construction on designated land. At this juncture, greenbelts are too politically controversial to amend explicitly but they are already effectively being redrawn via the Local Plan approval process. This should help mitigate the most costly aspects of this cherished icon in planning law. Compulsory purchase will be required at least as a reserve power to prevent hold-out bottleneck situations. Greater use of covenants offer an attractive element in the revised planning toolkit, and one that can be employed to enhance better design standards.

Constructive co-operation between local authorities and developers is crucial if this is to be achieved. In particular, the former need a significant fiscal incentive to encourage appropriate investment in new neighbourhoods.

The mechanism for delivering this vision is a new statutory process referred to here as Pink Zones.¹³ The initial impetus for the creation of a Pink Zone is likely to come from a local authority or group of local authorities, but it may also be triggered by a developer or group of developers who are frustrated about the regulatory planning hurdles that prevent them from progressing a specific scheme. The drive behind the creation of a Pink Zone may also come from a range of other interests including, for example, a large-scale employer looking to relocate out of an expensive area.

¹⁰ A contemporary initiative to revive this approach was put forward by the 2014 Wolfson Prize Winner David Rudlin of URBED who argued for the near-doubling of existing large towns in line with garden city principles.

¹¹ See Dr Katherine Drayson, *Green Society: Policies to improve the UK's urban green spaces*, Policy Exchange, September 2014.

¹² See the Appendix to this report for details on the methodology and questionnaire.

¹³ The concept of Pink Zones owes much to the Project for Lean Urbanism, a US and UK initiative aimed at promoting small-scale development. See <http://leanurbanism.org/>



The proposal will need to be framed so as to engage the active participation and enthusiasm of other stakeholders, including utility companies, existing residents groups and other interested parties. Once the motivation exists for a proposal, it will be driven through a Special Purpose Vehicle (SPV) which will coordinate the project, and act as the central point for applications, undertakings and negotiations. To avoid bureaucratic capture, SPVs would be disbanded on completion of a project.

The SPV could be connected in some degree to one or more of the local authorities most closely associated with the proposed development; local authorities are becoming increasingly used to performing a range of functions through company or other commercial structures. Alternatively the SPV could be entirely separate from any public authority; it could, for example, be established by a planning consultancy firm for the purpose of facilitating the development at the request of or in partnership with the residential developer, or a consortium of development interests. There are a number of possible commercial and other models that could be deployed, and in taking forward the recommendations in this strategy one of the issues to be discussed with stakeholders is the most appropriate form and range of functions for the SPV.

In this context, much can be learnt from certain enlightened councils, notably the City of Manchester in the north and Peterborough and Milton Keynes further south.

4. A SIMPLER APPROACH

Pink Zones represent a pragmatic opportunity to cut through the logjam of regulations and delay in the UK planning system: a problem which impedes the construction of flats and houses and the creation of attractive communities to meet soaring demand while also reducing competition between residential developers.

This approach is not dissimilar to that of the entrepreneurs and philanthropists who created whole new neighbourhoods and suburbs in the past: places such as Bournville, Port Sunlight and Hampstead Garden Suburb. The most likely reason for the success of these developments was that their ambition was not confined to the building of houses, but extended to the development of rounded communities with garden squares, parks, street lighting and social and commercial amenities.

To achieve the equivalent of those initiatives it will be essential to mobilise capital held by financial institutions – including life insurance companies, pension funds, sovereign wealth funds and charitable foundations. The aim should be to provide the necessary encouragement and incentives for these institutions to invest in housing for sale, but also – crucially – housing for rent which is maintained and serviced by dedicated, expert management companies (commonplace in Germany but rare in Britain). Furthermore there is also a significant role for third-sector organisations in delivering certain aspects of new communities, although progress should mainly come from commercial activity.

This approach could offer something for all interested parties. These stakeholders are:

- developers;
- investors;
- local authorities;
- utility providers;
- local businesses;
- actual and prospective residents.

The ideal strategy would focus on voluntary action that emphasised the participation of as many stakeholders as possible. It is envisaged that the development itself would in most cases be implemented by a number of



builders as opposed to a single master developer. This contrasts with the previous attempts at legislative reform which were driven by top-down compulsion and enforced by laws which key stakeholders have tended to do their best to circumvent or minimise.

4.1 Pink Zones: the mechanism

Pink Zones would emerge from a convergence of interests between a local authority, landowners, local residents and developers. They are intended to provide a self-contained framework, adapting, simplifying and modifying aspects of existing planning law to allow new development projects to go ahead, while maintaining safeguards in the planning process. They will reflect aspects of four existing planning mechanisms in order to establish a constructive legal framework to encourage attractive development. The four mechanisms are:

1. The Nationally Significant Infrastructure Project (NSIP) mechanism under the Planning Act 2008 which offers a legislative driver that enables large-scale development on the back of a single stream-lined consent mechanism, capable of taking account of local interests and national concerns at the same time.
2. Development mechanisms under Part 3 of the Town and Country Planning Act 1990.
3. Elements of the Community Infrastructure Levy (CIL), amended in order to incentivise development that provides mutual benefits for developers and for the wider community.
4. Aspects of New Town legislation, notably the New Towns Act 1981, employing an adaptation of legislative powers provided by that legislation with respect to planning and land-acquisition, as well as infrastructure development, but with expanded aims including modern expectations of sustainability, amenity and opportunity.

As the principal problem of planning is over-regulation and over-complexity, any new mechanism must have a net deregulatory effect, and not simply add yet another layer of complexity and technicality. The Pink Zone initiative will therefore examine each aspect of existing planning controls to ensure that, in the reformed system, it is clarified and simplified to the fullest extent necessary.

For example, with the fragmentation of responsibilities for utilities and local services it has become necessary for proposed developments to engage with a range of separate consenting mechanisms. The complexity of these mechanisms can itself be a significant disincentive to large-scale development; Pink Zones would draw at least some of the different consenting regimes together and provide significant streamlining.

Additionally, the opportunities for challenge and consequent delay at different parts of the development process and by different interests is a major source of frustration for prospective developers. In the spirit of the Government's recent initiatives to make judicial review in the planning field more effective, a Pink Zone would focus review opportunities around one or more key points, ensuring that interests were considered properly and at the appropriate time without providing endless opportunities for delay and manipulation.

It will also be crucial to phase investment in infrastructure rather than oblige developers to frontload expenditure in order to address existing shortfalls in local provision. This deters new initiatives.

4.2 Covenants and compensation

Greater use of covenants could reduce the need for detailed planning by local authorities. The international experience, together with the record of covenants in Britain, indicates that, within certain parameters and subject to certain



limitations, they can be a useful tool to ensure better design standards and the maintenance of desirable places where people want to live.¹⁴

In a distinctive breach from the post-war UK planning regime, the onus should be on compensating those directly impacted by a development. So where a development might destroy or diminish a private interest, compensation should be provided. This would be preferable to relying on existing mechanisms which are either insufficiently direct to be considered relevant by those affected, or inefficient or ineffective for other reasons. (It is worth highlighting that the approach adopted in France and the Netherlands aims to provide direct compensation for those living within 50 metres of a development.)

Pink Zones could bring benefits to all concerned. In particular: they offer a dilution of planning regulations that will reduce pressure on overworked local authority officials and make it easier for them to fulfil their role; and they provide a means by which councillors can meet the housing supply targets set by the Local Plan regime guided by the National Policy Planning Guidance (NPPG), in a positive manner. Simplification should also attract institutional investors who are beginning to fund developments in urban locations offering a significant proportion of housing for rent. Furthermore, Pink Zones should ideally involve a modification of local government finance¹⁵ so

that a higher proportion of the potential fiscal benefits of development are channelled directly into local authorities, thereby correcting the current disincentives which deter local authorities from granting development approval.¹⁶

5. WHO BENEFITS?

Pink Zones are a mechanism for creating new places as well as new housing. By adopting this approach new communities will be underpinned by attractive open spaces, parks, social amenities and community centres providing healthcare, education services and leisure facilities. They will be developed with consideration for sustainability and opportunity, including the necessary commercial and employment opportunities to ensure the local prosperity required to achieve continuity and sustainability.

¹⁴ Belgravia is a classic example in Britain; Seaside in Walton County, Florida is a more recent example in the US. Interestingly, Seaside is almost entirely self-built to a simple design code. The land was assembled, plots were sold and the infrastructure built as it became needed.

¹⁵ Council tax is the only tax set by local authorities. On average it accounts for approximately 22% to 25% of local government revenue – the remaining three quarters is derived from central government grants or through business rates which are collected centrally and then redistributed at the discretion of central government through what is termed the 'Formula Grant'.

¹⁶ Economic modelling undertaken by the Centre for Cities indicates that the size of the incentive provided by the Coalition Government's initiative linked to the New Homes Bonus and the Business Rates Retention measure, would have to be doubled or even trebled to have a serious impact on the willingness of local authorities to increase their land allocations for new housing (see Kieran Larkin et al, *Room for Improvement: Creating the Financial Incentives Needed for Economic Growth*, www.centreforcities.org, 2011).

In the US, local residents have a far greater incentive to back commercial property development as it reduces their local tax rates as well as providing greater employment opportunities. Meanwhile, in Switzerland, a local income tax is levied, thus existing residents can recognise a real gain from encouraging additional development, especially that aimed at wealthier incomers.

In contrast, English local authorities rely mainly on the residential property tax, i.e. council tax, as a source of revenue and even this is subject to revenue equalisation administered by central government. In practice, over the short term, local authorities incur a financial loss if they permit new residential development and they must rely on central government grants calculated on the basis of assessed needs to gain any fiscal compensation in the longer term.



The amenities proposed as part of a Pink Zone will benefit all participants, including developers in the form of higher sale and rental values and local authorities in the form of enhanced socio-economic resident profiles leading to increased local prosperity. These amenities will be secured through the use of legal mechanisms, either existing mechanisms such as covenants or new legislative restrictions secured through local land charges registers or in other ways, which will in turn guarantee their permanence. Providing funding to ensure their sustainability will be another issue, also to be addressed in the initial consenting mechanisms.

A possible objection is that local authorities might be tempted to amend proposals for a new Pink Zone if a developer subsequently reviewed plans for any of the amenity provision originally included in a scheme. For example, a developer might suggest halving the land allocated to a park or open space in order to squeeze more housing on the site. However, as matters stand, there is nothing to stop a developer trying to promote a scheme with higher housing densities under existing planning law. Yet, on the whole, the number of large scale housing developments proposed in England in recent years has been noticeably limited. Hence, the fall in annual construction totals.

Pink Zones are intended to facilitate more ambitious schemes that are more likely to win the support of interested parties such as the local authority, existing residents and utility providers. Approval for a new Pink Zone would hinge on the quality of the development – which would be defined in terms of housing density, provision of open spaces and community amenities. If these were not complied with, the development would not go ahead. But, in practice, it is hoped that a covenanted design code would ensure the quality and range of amenities of any project.

Local authorities are already under pressure to encourage greater development: the Local Plan regime, as implemented through the NPPG, requires local authorities to set out their strategies for creating additional housing to meet perceived demand. If they fail to do so, the Planning Inspectorate can intervene. The record over the last year demonstrates that the Inspectorate is more inclined to grant approval for development schemes. Consequently, local authorities must do something – even in greenbelt areas. The Pink Zones would enable them to do so in a constructive and sustainable manner.

5.1 Developers

It is striking to note just how poorly England compares with continental neighbours, such as France and the Netherlands, in terms of the applicability and ease of use of its planning system. In practice, local authority planning officials and elected councillors can exert considerable power over developments, whether large or small in scale.

Developers frequently complain about the delays and frustrations associated with the English planning system but they also need to rediscover skills from the past with respect to the development of vibrant and coherent communities. Pink Zones provide a legal mechanism for ground up development with developers co-operating with other stakeholders in the planning and construction of whole new neighbourhoods. Learning from the best aspects of the Urban Development Corporations and enterprise zones, along with estates held in trust such as The Crown Estate and the Duchy of Cornwall, this initiative should provide a welcome element of certainty for developers who will then be able to mobilise capital to fund new construction.

5.2 Investors

Pink Zones could provide an opportunity for institutional sources of capital to invest in



private sector housing and support amenities. Institutions such as Legal & General and M&G in the UK and overseas investors including Macquarie, Qatari Diar (an arm of the Qatari sovereign wealth fund) and APG, have indicated their interest in investing in housing, notably housing for rent, in the so called Private Rented Sector (PRS). In contrast to what is commonly seen in continental countries such as Germany, Britain's property market has attracted few corporate or institutional landlords, notably from the life insurance and pension fund sectors. However, good PRS assets offer an attractive and relatively low risk home for these institutions to invest their policyholders' capital. Savills estimates that the value of large-scale institutional schemes grew by 56% last year to £2.5 bn. This is a trend that requires a further push: Pink Zones provide that opportunity.

5.3 Local businesses

One of the most successful aspects of Milton Keynes has been its record of providing a home to new SME businesses, thereby generating well-paid jobs, as well as its impressive record of innovative development (reflected in a top ten ranking with respect to patents approved per 100,000 residents).¹⁷ Milton Keynes provides a model for future development with regard to attracting and fostering growing businesses and Pink Zones will provide earmarked areas for SMEs, supported by the infrastructure now required for economic success such as first rate broadband connections.

5.4 Actual and prospective residents

Existing residents are often wary of new development on the understandable grounds that they fear losing out. A more consultative approach with meaningful financial compensation for those directly affected by new developments should go some way

towards mitigating this scepticism: it will certainly be better than the current polarised position. Furthermore, current householders are increasingly aware that there is a need to build attractive, affordable accommodation for their elderly relatives (or themselves in years to come) and most especially their adult children who have difficulty finding affordable accommodation. Pink Zones provide a mechanism for addressing these needs.

Those without somewhere to live of their own would welcome the development of much needed new accommodation for rent or sale. The current crippling bottlenecks, particularly the lack of housing supply in the South-East, are simply unsustainable.

5.5 Utilities

Utility firms are faced with the challenge of providing water services, electricity and power to new developments. Thus, if such firms have a hand in creating developments at the outset the whole process should work more smoothly. There may also be an emergence of basic infrastructure providers, laying cables, drains and the other basics required for twenty-first century living. Such contractors once existed in Britain – Thomas Cubitt who laid out Pimlico and Belgravia was one of them – and they are still commonplace in the US.

Not only is more housing and support infrastructure needed to meet demand, it is also a crucial element in Britain's future economic growth. In 2011, the Centre for Economic & Business Performance estimated that increasing house construction from 94,000 units (the 2011/12 total) to 300,000 units (the total achieved in the 1950s) would increase the number of permanent jobs by over 200,000 and add £75bn to UK GDP.¹⁸

¹⁷ See Keith Boyfield and Inna Ali, *Simplified Planning*, Centre for Policy Studies, 2013.

¹⁸ *Forecasting Eye: Analysis and Interpretation of Key Data Releases*, Centre for Economics & Business Research, 2011.



6. CONCLUSION

The present planning system inadvertently encourages an adversarial “developers versus residents” approach. The current statutory consultation falls short of what is necessary to engage stakeholders in a creative way; and it tends to come much too late in the process.

Pink Zones, in contrast, are intended to foster a genuinely consensual process so far as possible, based on real mutuality of benefit; stakeholders and potential stakeholders would be involved from the outset and could have real influence on the delivery authority and on the permanent management structures.

Equally, good communication is not enough – the system should provide genuine incentives to active and supportive involvement.

This could be a timely proposal as the interests of all parties are converging. The need for new, better housing is widely acknowledged; institutional investors have an increasing appetite to be involved in residential development; local authorities are under pressure from the Local Plan regime to allow more housing; and developers, particularly smaller developers, are keen to increase their share of the market.

This is how Pink Zones could work in practice.

- A Pink Zone opportunity is identified by a local authority, a third sector body, a consortium of developers or a combination of these parties.
- A site is identified for development.
- The proposed development is scoped in terms of its needs including infrastructure, social facilities, transport links and employment opportunities.
- A delivery authority, the Special Purpose Vehicle, is established and appointments made with respect to who will manage this body.

- The design code is agreed between stakeholders, including local residents.
- Legal powers and support mechanism needs identified.
- Tenders for investment opportunities in proposed development issued with specific covenants to ensure high quality amenities are delivered.
- Memorandums of Understanding for public authority and utility commitments are agreed.
- Legislative requirements are identified.
- Compensation or enhancement packages are agreed.
- Single legislative instrument delivers necessary powers to the SPV.
- Covenants, contracts and side agreements are negotiated by the SPV to sit alongside the agreed legislative instrument. Penalties are detailed for breach of covenants.
- Investors submit their bids.
- Central, local and sector authorities and stakeholders settle final terms of the overall package.
- Implementation begins with investors appointing a number of developers for various parts of the site. Progress is monitored by the SPV.
- Once the new neighbourhood or town is built the SPV surrenders residual ownerships and powers to a permanent third sector institution which manages and oversees local amenities.
- The SPV is disbanded.



APPENDIX

METHODOLOGY AND QUESTIONNAIRE

Methodology

As an integral part of this research study, a detailed questionnaire on the problems surrounding the UK planning system was circulated to a range of interested stakeholders. This initiative was subsequently followed up with a series of face to face interviews with these interested parties across the country.

The response to this survey together with the views collected from leading figures in the planning field following lengthy interviews have formed the basis of this paper examining the challenges, opportunities and hurdles confronting the planning system as it operates in England. One of the prime objectives was to ascertain the underlying reasons as to why there is a problem with development – reasons which might not necessarily be aired publicly by the parties involved.

Leading figures from the following relevant parties were interviewed:

- Investors;
- Developers;
- Builders and construction companies;
- Infrastructure providers – sewerage, sewage, power utilities, public transport bodies;
- Planning officials (with local authorities);
- Town planners;
- Surveyors;
- Academics;
- Think tanks;
- Planning lawyers;
- Planning consultants.

This research has helped shape our recommendations on how to tackle the obstacles to good development which satisfies a clear need and how we can make it attractive for financial institutions, construction companies and local authorities to develop new housing and the associated infrastructure, social amenities and environmental safeguards required.



Questionnaire

1. What in your judgement are the key problems associated with the planning system as it currently applies in England?
2. What can be done to expedite planning delays?
3. How can we release more land for housing and commercial development? Is there more scope for public bodies such as the NHS, Ministry of Defence and local authorities to sell land for redevelopment? To what extent do they need to tap professional advice on these potential sales? (Richard Blakeway, the Mayor of London's housing adviser, says that "many public bodies just don't have the expertise in disposing of that land").
4. Sir John Ritblat has suggested government should lease brownfield sites to builders with ground leases up to 125 years. In your view is this a helpful proposal?
5. Local Plans appear to be seriously underestimating housing need. This has led to many draft Local Plans being rejected by Planning Inspectors. How do you think Local Plans can be improved so as to deliver a reasonable balance between development and safeguarding the things that make a place attractive to live in?
6. Would it make sense to review our greenbelts and identify areas within them which are suitable for development?
7. What are the crucial barriers blocking the construction and development of new Garden Cities?
8. Should the government provide for compulsory purchase of land to develop new communities – a legal right provided to the New Towns built in the post-war decades? What level of compensation should be paid to existing landowners?
9. In our Simplified Planning study for the Centre for Policy Studies (CPS) we recommended that a cap should be placed on the total sum of money paid to land owners who win auctions to develop new housing. The difference should be channelled into local infrastructure provision. Do you think this is a sensible proposal?
10. Does the current planning process as it is applied fully take into account the economic case for development? Is there a case for attempting to price planning decisions on a cost /benefit basis?
11. Our CPS report also recommended private developers should compensate third parties affected by development. The precise level of compensation should be determined by the planning process. Do you think this is a practical recommendation?
12. Is there more scope for incorporating covenants into the way in which new neighbourhoods are developed? These worked well in the past; do they have a future?
13. Of the key problems that you have identified, which relate to the state of the law and which relate to how the law is applied or interpreted by local or central government?
14. Would you support the introduction of a new single-track process for facilitating large-scale housing neighbourhood projects, similar to the Development Consent process for Nationally Significant Infrastructure Projects?
15. If you would, what would be the key features of that process, from a development viability perspective?



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