



Pointmaker

A SUGGESTION FOR THE HOUSING AND PLANNING MINISTER

KEITH BOYFIELD AND DANIEL GREENBERG

- At the start of a new Government, Housing and Planning Minister Brandon Lewis has a great opportunity to address Britain's housing shortage.
- The UK planning system is chiefly to blame, restricting housing supply and inflating house prices to unaffordable levels. The mass of planning legislation is poorly understood; even local authority planning experts complain they have difficulty coping with the workload that it generates.
- A complete consolidation and simplification exercise is long-overdue.
- **Pink Planning**, a CPS report, proposes a solution: the introduction of a delivery mechanism based on the adoption of "Pink Zones".
- Termed pink because they deliver lighter, streamlined planning regulation and cut through existing red tape. In these zones, substantial increases in housing could be achieved by a coalition of investors, developers, local authorities and resident groups working to build attractive, vibrant new residential developments, underpinned by social infrastructure.
- Pink Zones are designed to work from the bottom up – not the top down – bringing together a range of stakeholders: local residents, developers and councils to achieve consensus over new development and accelerate the development process.
- Pink Zones will increase competition, bypass many current planning regulations and improve design standards by employing a Special Purpose Vehicle (SPV) as the delivery mechanism.
- Policy clearance will come from central government through a permission to apply, thereby encouraging investment in development schemes and offering an element of confidence to potential funders.
- Pink Zones allow for covenants to safeguard long-term community assets; they provide incentives for communities to co-operate; and they offer direct compensation for those whose amenity is affected by a proposed development.



1. INTRODUCTION

A feature of the recent general election campaign was the commitment made by all the major political parties to build more homes in Britain. The Conservative manifesto promised to “support locally-led garden cities and prioritise brownfield development, making sure new homes are always matched by the necessary infrastructure to support them”.

Having won office, the question for the incoming Housing Minister is *how to deliver on this objective?* The principles of *Pink Planning* – aimed at streamlining the process and incentivising a collaborative approach by stakeholders as part of a deregulatory and localised agenda – provides a mechanism for achieving these goals. In this context, the *Pink Planning* framework is expected to be acceptable to command cross-party support as all parties have committed to building new homes and communities.

Pink Planning, published by the Centre for Policy Studies in November 2014, sets out how new homes and neighbourhoods can be developed and built, driven by business consortia working with landowners, local authorities and, crucially, local communities and residents.

2. PINK ZONES

Pink Zones are different because, while driven by commercial enterprise, they can also mobilise ‘bottom-up’ support from the local community for new housing and neighbourhoods. Pink Zones differ also in that they include planning for a wider range of amenities for effective community development and regeneration; this includes extensive infrastructure – including transport links (road, rail and public transport), leisure facilities, retail space and an attractive cluster of parks and green spaces – but also extend to employment opportunities and business support

infrastructure of a kind that is key to long-term growth.

The *Pink Planning* process is a legislative delivery mechanism that side-steps the existing complexity, and offers a streamlined regulatory process to encourage rapid and effective development of new communities as well as the regeneration of existing ones. The key is homebuilding – residential developments offered by commercial developers to meet central and local home building targets, backed by appropriate amenities and infrastructure.

The distinctive aspects of *Pink Planning* are threefold: firstly, incentives are offered for community co-operation, thereby reducing adversarial conflict; secondly, this approach rewards co-operative development with a streamlined procedure; and thirdly, it expands the range of developer’s contributions and involvement beyond infrastructure, to include employment growth and other factors that supply residents’ wider needs and make the developed communities good places to live and work.

The inspiration for this approach stems from Britain’s Victorian and Edwardian history – periods in which we constructed attractive towns and suburbs across the country to house Britain’s rapidly growing population and enable people to live within commuting distance of their workplace. This was the driving impetus behind new communities in Birmingham, Manchester, Liverpool and other major conurbations. It was exemplified in places such as Withington and Altrincham in Greater Manchester; Southport on the Lancashire coast; and the model villages built by business tycoons in Port Sunlight on Merseyside and Bournville in the Midlands. During the Edwardian era, garden cities were built in Hampstead Garden Suburb, Letchworth and Welwyn Garden City. London experienced



the greatest growth, exemplified by the development of 'Metroland' in the interwar years, as celebrated by Sir John Betjeman.

After the Second World War, Britain lost its knack for building attractive communities. Many of the New Towns built in the 1950s and 1960s were poorly constructed, lacking both amenities and infrastructure, and offered only rental housing at the lower end of the price spectrum. Crucially there was a lack of choice. As soon as residents could do so, they left. Today, Britain is faced with the task of rejuvenating many of these towns, such as Skelmersdale in Lancashire and Cumbernauld in Scotland, which have fallen into disrepair, both physically and socially.

Pink Planning aims to renew the positive vision of shared community interests before the onset of top-down centralised planning; and to deliver attractive places where people want to live. New will not automatically be seen as mean.

To achieve this goal, the Government should step back and encourage local people and businesses to design and build attractive new communities. These could be funded by a diverse range of capital sources but with a fresh focus on institutional capital – life insurance companies, pension funds, sovereign wealth funds and the third sector – to provide a mix of housing to buy and rent, along with retail, commercial and business space. This is urgently needed if Britain is to provide homes for its rapidly growing population, which the latest ONS forecasts suggest may reach 70 million by 2024, four years earlier than previously anticipated.

3. PINK ZONES: WHAT IS NEEDED FOR THEIR CREATION AND DELIVERY

Identifying, designing and delivering a Pink Zone involves a three part process. The first task is to engage with all parties directly involved in, or affected by, the new development; secondly,

remaining interests that cannot be accommodated are addressed through traditional planning mechanisms and through innovations, particularly direct compensation (outside compulsory purchase); and finally, a planning inquiry allows the plan to be assessed and approved by experts and remaining issues to be addressed and adjudicated. A key advantage for developers and financiers is the relatively predictable timetable (compared to the consecutive operation of different consenting regimes).

Pink Zones work as follows:

1. A Development Plan for the new community is submitted by a special purpose vehicle (SPV) with local authority support to central government for policy approval. This enables ministers to ensure at the outset that due process has been followed and that all stakeholders have had an opportunity to set out their arguments.

Ministers then confirm they have no policy objections about a development before the next stage in the process commences.

The principle behind this approach is that politicians are able to deal with political issues openly and before funding is sought to back expensive investment.

Pink Zones would not flow from 'a decision in principle' but rather a permission to apply, thereby encouraging investment in development schemes and offering an element of confidence to potential funders.

2. Local issues are then investigated through a planning inquiry process:

Planning issues should be addressed by professionals with the right experience to



ensure effective planning and appropriate safeguarding for individual interests.

This is more efficient and effective than having planning issues adjudicated by politicians in an antiquated adversarial system, whether by a hybrid bill or a special parliamentary procedure.

3. Once the local inquiry process approves the Development Plan, a Development Order is made to implement it, which will include:

- Compulsory purchase powers where required as already employed in Development Consent Orders/Transport and Works Orders.
- Any necessary powers required to modify ancient local legislation as already employed in Development Consent Orders/Transport and Works Orders.
- Covenants to safeguard community assets (buildings, green spaces, rights of way, etc.).

Under this delivery system the SPV acts as an efficient project-delivery manager, contracting as necessary with suppliers. Direct compensation is provided for in the Development Plan with side-agreements.

Where appropriate, provision can be made for a bespoke tailored SPV to continue after the development is delivered to manage certain amenities and community assets. Otherwise, it will be wound up.

The legislation required to establish specific Pink Zones will draw on the following elements as set out in *Pink Planning*:

- Enterprise zones;

- Transport and Works / Development Consent Orders (DCOs) – Nationally Significant Infrastructure Project (NSIPs);
- New Towns Act 1981;
- Community Infrastructure Levy – Planning Act 2008;
- Urban Development Corporations;
- Planning agreements – Town and Country Planning Act 1990, notably section 106.

4. JUMP-STARTING DEVELOPMENT

Pink Zones offer a mechanism to streamline planning hurdles and attract investment, particularly from the institutional capital sector. It is striking to note that the last New Town to be built in England was Milton Keynes, over 40 years ago, while the largest communities which have been given the go-ahead in recent years are relatively modest in size: for example, Cambourne, developed by three major housebuilders near Cambridge, aims to provide at most 10,000 homes on a 400 hectare site; meanwhile the Hamptons, a new suburb on the edge of Peterborough, has a target of 4,750 new homes, built at a rate of up to 500 a year. Ebbsfleet, the New Town which is currently being built in Kent on the route of the high speed rail link HS1, is envisaged to offer a relatively modest total of 15,000 new homes when it is finally completed.

In research for the latest phase of the Pink Planning initiative, interviews conducted with chief planning officers across the country reinforced the widespread perception that far too many UK housebuilders settle for second or even third best. There is a poverty of imagination in the design and layout of new communities and homes. Britain's private rental sector compares poorly with those of its continental neighbours. Very few projects were of architectural merit;



builders tend to build what they think they can sell – quickly. Adopting a radical *Pink Planning* approach could lead to a range of benefits, outlined below.

5. BENEFITS TO BE GAINED FROM IMPLEMENTING PINK PLANNING

- Engagement with the *Pink Planning* process would allow developers to move faster and more efficiently.
- *Pink Planning* would incentivise effective engagement with central government, local authorities, utility undertakers, interest groups and residents.
- A central delivery mechanism drives the process and keeps it on track – the SPV brings local government, developers and other interests together and counteracts ‘silo’ thinking.
- The SPV is responsible for the Development Plan, which provides for new homes plus the wider infrastructure and community amenities required to maintain them.
- The SPV builds a coalition of public and private interests, including employers and commercial developers.
- Local interests are accommodated wherever possible through the SPV’s development plan – covenants can be built in to the development plan to provide future safeguarding.

6. HS3: AN OPPORTUNITY TO ADOPT PINK PLANNING PRINCIPLES.

To cite a specific example of what the *Pink Planning* initiative envisions, it could be employed to encourage investment in new

communities along the proposed route of the HS3 rail link, which aims to transform travelling time along the transport corridor connecting Liverpool, Manchester, Leeds and Hull.¹ Assuming the project receives the go-ahead, Pink Zones could be introduced around a string of new and existing stations along this arterial route. This would enable investors and developers to work in tandem with local authorities and local residents to create attractive new communities, with the infrastructure and amenities that are expected in the twenty first century.

7. TO SUM UP

Pink Planning is characterised by five key components offering an alternative delivery mechanism to the existing planning regulatory environment which relies on:

- A Special Purpose Vehicle (SPV) as the delivery mechanism;
- Policy clearance from central government;
- Covenants for long-term safeguarding;
- Community incentives;
- Direct compensation.

¹ Note: the House of Lords Economic Affairs Committee (March 2015) stated in March 2015 that, as yet, there was no firm definition of the route implied by HS3.



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 into local authorities, 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 must destroy or diminish a private interest, and where design solutions do not fully address an issue, compensation could be offered.



THE CENTRE FOR POLICY STUDIES

The Centre for Policy Studies is one of Britain's best-known and most respected think tanks. Independent from all political parties and pressure groups, it consistently advocates a distinctive case for smaller, less intrusive government, with greater freedom and responsibility for individuals, families, business and the voluntary sector.

Through our Associate Membership scheme, we welcome supporters who take an interest in our work. Associate Membership is available for £100 a year. Becoming an Associate will entitle you to all CPS publications produced in a 12-month period; invitations to lectures and conferences; advance notice by e-mail of our publications, briefing papers and invitations to special events.

Please contact Jenny Nicholson for more details:

Jenny Nicholson
Deputy Director, Events and Fundraising
Centre for Policy Studies
57 Tufton Street
London SW1P 3QL
020 7222 4488
jenny@cps.org.uk

The aim of the Centre for Policy Studies is to develop and promote policies that provide freedom and encouragement for individuals to pursue the aspirations they have for themselves and their families, within the security and obligations of a stable and law-abiding nation. The views expressed in our publications are, however, the sole responsibility of the authors. Contributions are chosen for their value in informing public debate and should not be taken as representing a corporate view of the CPS or of its Directors. The CPS values its independence and does not carry on activities with the intention of affecting public support for any registered political party or for candidates at election, or to influence voters in a referendum.



THE AUTHORS

Keith Boyfield is a leading economist and research fellow at the Centre for Policy Studies. He is the author of over eighty studies on economic and public policy issues including *Simplified Planning*, co-authored with Inna Ali, published by the Centre for Policy Studies in May 2013 and *Regulatory Impact Assessments (RIAs): Why don't they work?* published in July 2007. He also co-edited, with Graham Mather, *Britain's Unsolved Housing Dilemma* (2001) and contributed the concluding chapter, 'The Housing Morass: A Public Policy Response'.

Daniel Greenberg is a lawyer specialising in legislation and the legislative process. He served in the Office of the Parliamentary Counsel from 1991 to 2010 and now works as a consultant in Berwin Leighton Paisner LLP, where he has an international drafting, training and advisory practice, and as an adviser in the Office of Speaker's Counsel, House of Commons. He is the General Editor of *Westlaw UK Annotated Statutes* and *Insight Encyclopaedia*, the Editor of *Craies on Legislation*, *Stroud's Judicial Dictionary* and *Jowitt's Dictionary of English Law* and the Editor in Chief of the *Statute Law Review*; he is also an Associate Research Fellow of the Institute of Advanced Legal Studies, University of London.

ISBN 978-1-910627-11-2

© Centre for Policy Studies, May 2015