

The Duty to Build Beautiful



A collection of essays on embedding the
beauty agenda in policymaking

Edited by Jack Airey

Foreword by Rt Hon Esther McVey MP



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Foreword

By Rt Hon Esther McVey MP
Minister of State for Housing and Planning

From his first days in No 10 Downing Street, the Prime Minister has argued for “the duty to build beautiful homes that people actually want to live in”, as well as the importance of “being sensitive to local concerns”. These must be the guiding principles of our housing policy, as this Policy Exchange essay collection sets out. It is no good building hundreds of thousands of new homes if they are not well made and in the right places where people want to live.

New developments should enhance the beauty of local places, rather than looking like they could have been built anywhere. Building in this way will help to unlock public consent for delivering the homes the country so desperately needs. I want younger people to aspire to live in these new homes, giving them a stake in the nation’s prosperity.

What is most urgent about the beauty agenda is that it’s Blue Collar Britain that can get overlooked. It should worry us all that around half of lower income groups think that poor quality environments are the norm. It is only right that everyone should be able to expect a beautifully designed home in a well-planned environment.

But beauty has been neglected in policy-making for too long and this has allowed too many of our proud towns to be scarred by architects and planners who have no regard for what local residents want. New buildings can blend seamlessly into an area if they reflect the historic form, style and the character of the community living there. Indeed, this strengthens the sense of belonging and affinity people have to their community and environment.

Undoubtedly, fulfilling our duty to build beautifully will be a big task. But there is no end of opportunity. Technology and innovation, most evident in Modern Methods of Construction (MMC), are ushering in a new era of housebuilding quality and design. I welcome this essay collection for some of its practical recommendations that will help us build more beautiful homes.

What this report makes clear is that landowners and developers have an essential role to play. They are often tarred with the same brush, but the truth is that there are many homes being built to a brilliant standard and as Housing Minister I want to make sure it is as easy and profitable as possible to build beautifully.

That’s why the Government set up the Building Better, Building Beautiful Commission and I look forward to reading its final report later this year. After decades of undervaluing the importance of beauty in our housing, it is vital that we get this right so that every family can live in a home and community they take a unique sense of pride in.

Introduction

By Jack Airey

Head of Housing at Policy Exchange

In his first speech as Prime Minister on domestic policy, Boris Johnson said that his Government will, “emphasise the need, the duty, to build beautiful homes that people actually want to live in, and being sensitive to local concerns.”¹ Coming two weeks after the publication of the interim report of the *Building Better, Building Beautiful Commission* – an independent body set up to advise the Government on how to tackle the challenge of poor-quality design and build of homes and places – the new Prime Minister’s commitment to the beauty agenda was welcome. It elevates the Commission’s work and offers an opportunity to embed recommendations in policymaking.

As the *Building Better, Building Beautiful Commission* enters its second phase – a final report is due by the end of the year – we are publishing this essay collection to provide new and practical ideas for building more beautiful homes and places. The collection brings together thinkers from law, finance, energy and environment, architecture, property, planning and housing, all considering how the practice of development can change to deliver the sort of built environment in which people want to live.

In the collection’s opening essay, Professor Yolande Barnes, Chair of the Bartlett School of Real Estate and Adviser to the *Building Better, Building Beautiful Commission*, considers how the nature of global capital shapes the built environment. She argues that global capital markets are increasingly valuing assets for the longevity and quality of their income, rather than their future capital growth potential. This has significant implications for the built environment because investor interests are now much more closely aligned with their tenants. As Yolande writes, “Thriving communities with lots of human interactions and encounters is good economics: simple, flexible, adaptive buildings, managed for people and run efficiently with low energy will quite simply create better income streams than obsolete, energy hungry alienating environments.”

Next, Robert Kerr, an architect and Director at ADAM Architecture, argues that any discussion of beauty should consider offices just as much as homes. As he writes, “In a world where so much of life is consumed in an office and commerce drives much of society, it is a paradox that we are surrounded by so many dreary, ugly and bizarre buildings.” He argues for a shift in office development away from ‘iconic buildings’ that dominate and loom over cities, and towards offices that are integrated into the cityscape.

Ben Bolgar, Senior Director at The Prince’s Foundation and Adviser to the *Building Better, Building Beautiful Commission*, writes on why developers should engage with communities rather than just consult them. He argues

1. <https://www.gov.uk/government/speeches/pm-speech-at-manchester-science-and-industry-museum>

that community consultation is a “smokescreen” used by developers who have already decided the scheme for which they want to get planning permission. Community engagement, in contrast, is genuinely democratic with people actively encouraged to share their opinions and properly inform a development plan. As Ben argues, engagement rather than consultation brings benefits: “Giving communities a say on the design of new developments not only makes securing planning consent easier, but it also leads to the building of better and more beautiful places.”

Charles Dugdale, a Partner at Knight Frank, writes about the role landowners can play in building beautiful developments. He says that to build places of value that people cherish for their design and character, landowners should be encouraged to be ‘legacy’ developers by retaining a long-term interest in what is built on their land. This would be a similar approach to the way places like Mayfair, Marylebone and Belgravia in London and the older parts of Glasgow and Edinburgh were built centuries ago. However, as Charles argues, the development system is geared against and actively frustrates landowners who want to take this ‘stewardship’ role. He says that this can be changed through reforms to the planning regime, infrastructure delivery and the tax code.

Gillian Horn, an architect and Partner at Penoyre & Prasad, asks whether volume built housing can be beautiful. Given around two-thirds of new homes built each year are built by volume house builders, this is a pertinent question. Gillian concludes that, “Even though the housebuilding industry has shown that it can occasionally deliver excellent and beautiful homes and places, its business model is not fundamentally configured to do so consistently.” She argues that there needs to be greater diversity in the type and size of housebuilders if beautiful homes and places are going to be built more frequently.

Benedict McAleenan, Senior Adviser to Policy Exchange’s Energy and Environment Unit, argues in his essay that the beauty agenda and the environmental agenda are intertwined. “By designing homes that make sustainable use of resources and that integrate nature” Benedict argues, “we can also create distinctive homes that reflect their distinctive landscapes. These are dual values: a sense of place and a sense of environmental purpose.”

Sara Bennison, Chief Marketing Officer at Nationwide Building Society, writes about why and how Nationwide has begun building new homes in Swindon, where their headquarters are located. She says that by returning to their roots – until recently building societies used to more directly support the building of good quality homes – Nationwide hopes to inspire a new housebuilding movement, building beautiful homes in the right way with the support of local communities. As Sara concludes, “Too often the housebuilding debate becomes polarised between encouraging the large housebuilders to build more or producing a new generation of council homes. We hope our model can help a wide range of businesses contribute in a practical way to meeting housing challenges.”

Greg Beales, Campaign Director at Shelter, argues that social housing

can be at the forefront of the Government's push for beauty and better design. This year is the 100th anniversary of the Addison Act, a watershed moment for the building of social housebuilding in England as Lloyd George's government built 'homes fit for heroes'. As Greg argues, "The nature of social housing – who it's for, how it's designed and how it's funded – offers a clear opportunity to be at the forefront of beauty and design for the next 100 years."

Dr Sue Chadwick, Strategic Planning Advisor at the law firm Pinsent Masons, writes on public participation in the planning process. She asks whether the planning framework is effective at giving the public a voice in debates about the look and shape of the built environment in their area. Sue argues there is a rigorous combination of statutory requirements and common law principles regarding public participation, however planning law is increasingly outdated because it does not effectively take account of new digital engagement tools, for instance Building Information Modelling (BIM) – a technology that can produce and assess digital representations of buildings.

Richard Hebditch, Government Affairs Director at the National Trust, writes about how the interaction between the private sector, government regulation and the public's demand for heritage, beauty and nature has changed over the 125 years that the National Trust has existed. He argues when writing local plans and building new developments, local authorities should use a "spirit of place" approach – the same approach used by the National Trust in managing its properties and developing land they hold for investment purposes. This approach, Richard writes, "Is fundamentally about the unique, distinctive and cherished aspects of a place, not just in terms of a more academic approach to its natural and cultural heritage but what the people who know it best value about it and what makes it special and different."

Charlie Blagbrough, Policy Manager at the Building Societies Association, considers where beauty fits in the mortgage process. This proposition sounds odd at first. In an industry based on cold calculations of capital risk weights and loan-to-value ratios, why would a financier care what a building looks like? While it is true that design and aesthetics do not have significant weight in the valuation of standard properties being lent on, it is an important feature of securing finance for the growing number of self-built and custom-built homes. Charlie concludes that is also an important part of achieving confidence in the mortgage industry to lend on homes built using different types of materials and Modern Methods of Construction.

Charles Anderson, Partner at the law firm Farrer & Co, considers the role of legal structures in facilitating 'legacy' development. He says effective legal structures are necessary during two key time periods. First, during the development period to ensure that the project is built in accordance with the design specification. Second, during the post-construction estate management period to ensure stewardship of the place that is built. Reforming legal structures for the latter period, Charles argues, "is an issue

that cannot be avoided by a Government committed to raising the quality of new development.”

In the final essay, Simon Hodson, Head of Residential Land at Jones Lang LaSalle, argues that the way new homes are built in the UK – what he calls the general house builder model – has not kept pace with societal change, for instance an ageing population and demands for flexibility. He writes that, “[the] model is inadequate to build the homes that people want in the places they want to live at the pace they are needed.” Simon concludes that systematic collation and analysis of live demand side data in the housing market (e.g. asking people what sort of home they would like to live in and the trade-offs they will make to do so) is the best way of supporting new types of house builders to emerge and disrupt the general house builder model.

Why beauty, urbanism and stewardship will matter to investors in the 21st Century

by Professor Yolande Barnes

“Real estate is a long term asset.” I increasingly hear this said by lots of different people but I was contemplating it myself in a very real way the other day as I paid yet another huge bill for the renovation and maintenance of my own home. My house was built in 1796 on land whose ownership is documented to before the 12th century. I’ve traced the property’s very chequered history so I can see that I am just the latest of about nine generations who have shaped and adapted the building over the last two centuries, and the latest of an even longer line of people before that, who shaped the land that is now my garden.

Despite the fact that the life of a piece of land is measured on a geological timescale and, in Europe at least, its legal existence is measured in centuries, its investment value has until recently, been remarkably short-term by comparison. During the second half of the 20th century, investment-grade properties (mostly commercial) were often built to provide less than 30 years return before being demolished and rebuilt. The cost of depreciating a building back to its land value was almost always completely hidden over this time by the enormous capital gains being made on the value of the land. Owner occupied housing is not altogether different. While, at current rates of demolition and rebuild, the average UK house has to last several hundred years, the real estate industry response to housing is relatively short term: housing developers will measure their returns on an annual basis, most rental investors will own property for fewer than 15 years and mortgage financiers will lend for 25 to 30 years.

In virtually all of the last 60 years or so, land value appreciation has hidden the costs of residential and commercial property depreciation and obsolescence from all but the most eagle-eyed real estate practitioner. Holding costs (maintenance, renovation and upkeep) have often been disguised by capital gains and regular trading. Even finance costs virtually disappeared for some in the ‘money illusion’ consequence of high inflation in the 1970s and 80s. While high interest rates, particularly interest rate shocks, had a profoundly negative effect on some borrowers, for example when base rates doubled almost overnight in 1989, most borrowers benefitted over the longer term. High rates of inflation over a couple of decades had the effect of devaluing mortgages and other borrowing relative to earnings, wealth creation and the capital growth of the real assets upon

which debt was secured. No wonder so many people now see property ownership as a ‘one way bet’ and younger generations feel they have been excluded by high prices from participating in a ‘money making machine.’

But the practice of ‘30 year real estate’ has, inappropriately in my view, continued from the 20th century into the early part of the 21st. This is unsustainable, not only environmentally given the embodied carbon and energy issues associated with constant demolition and replacement of buildings but also economically, given profound changes in the global finance and investment environment. If I am right, the adherence of borrowers, developers, investors and owners to late 20th century practices will have consequences which will prove to be socially unsustainable as well.

The nature of global capital has changed

There is mounting evidence that short term finance and investment models which allowed for ‘30 year real estate’ are a thing of the past – a late 20th century aberration which will not be sustained in the 21st century. I argue that the capital growth we have seen over the past ten years is the last death throes of a very peculiar era in real estate which has affected most developed economies and a lot of emerging and recently emerged ones too. A global phenomenon is changing the way assets and investments of different types, including real estate, are viewed.

In the years since ‘the great inflation’ of the 1970s and 80s, global supply increased relative to demand. But the price of many consumer goods have fallen in real terms since then as inflationary pressures have ameliorated. Central banks and bond markets responded quite slowly but interest rates in developed economies fell steadily in the 1990s and the first decade of this century. Although general price inflation then became less of an impetus for real estate rental and capital growth, the effect on real estate was still inflationary. This was not only because of inelastic supply in many real estate markets (which has been widely documented and possibly over-emphasised in some developed economies) but also because of a phenomenon known as ‘yield shift’.

Yield shift is easier to explain with reference to commercial real estate but it applies equally to residential property. When interest rates are high and investors expect higher returns from their assets, asset prices are low. When interest rates are low and investors expect lower returns from their assets, asset prices are high. To most people, this seems counter intuitive. If you get it, skip the next paragraph. If not, read on.

During ‘the great inflation’ central bank base rates were high and investors expected high returns from their assets – at least in line with the double digit inflation that they were experiencing. Let’s say, for the sake of simplicity, at this time investors wanted a 10 per cent return for the best assets. A property yielding a rent of £100 per annum would have a capital value of £1,000 (that is ten times the rent, 10 ‘years purchase’ (YP), a 10 per cent yield or a 10 per cent cap rate – whichever way you look at it). Now, imagine that 15 or 20 years later the rent passing is still £100 but interest rates have halved. The investor now wants only a 5 per cent return

from the same property. Nothing else has changed except the interest rate environment – bank accounts, other investments and returns are paying less so the investor expects less from an asset. The capital value of the property consequently doubles to £2,000 (20 times the rent or 20 years' purchase, or a 5 per cent yield/cap rate). Yields down=asset prices up.

So next, we have the so-called 'Global Financial Crisis' of 2008, initially caused by the collapse of mis-priced mortgage backed securities in the USA. Many in Asia referred to it as 'the North Atlantic debt crisis' which might be a more appropriate moniker but the repercussions had a wide recessionary effect in developed economies where the response of central banks was to lower interest rates to record lows. So, again for the sake of argument, let's say our property investor who wanted a 10 per cent return in the 1980s, 5 per cent in the early noughties, now wants 2.5 per cent. The property still rents for £100 but has grown in capital value by 300 per cent from £1,000 to £4,000 (£100 at a 2.5 per cent cap rate or 40 YP).

Not only most homeowners but probably quite a few commercial investors as well don't realise how much of their 'investment returns' are not the result of prudent stock selection or investment skill but simple mathematics in the face of a lower global interest rate environment.

The built environment is shaped by the nature of capital

Why on earth is this long discourse on the nature of global capital in the 20th century important for a discussion about Beauty, Urbanism and Stewardship? Well, my belief is that, interacting with demographics, society and technology, the nature of global capital has shaped the way we have built our cities over the last 60 years or so. I argue that the built environment professions have been subverted by the particular needs of 20th century capital rather than responding to the needs and desires of people - the inhabitants and occupiers of the built environment. This means it will be shaped by any future changes in the global financial environment as well.

Consider how in the developed world, a new, unprecedentedly large post-war generation, the Baby-boomers, form the first mass middle class majority. Not only did an unprecedented demand for consumer goods and services arise but so too did demand for financial services. Pension funds and insurance companies were swamped with savings. These institutions had to deploy this embarrassment of riches for one purpose and one only – growth. Receiving and growing the baby boomers funds was their task for 50 years. In the world of real estate investment, this meant deploying it in big lumps and trading it for the capital growth that was made possible by the inflation and yield shift (described previously).

This deployment was made possible by the organisation of cities and the built environment generally. Cities and suburbs were organised around the rising new technology of the automobile which meant big roads on big grids, creating large, single lots. The traditional city was atomised into segregated estates for shopping, for living or for working but little else.



The “Bridge to nowhere” over the M8 motorway at Charing Cross, Glasgow, Scotland – cities organised around automobiles and big roads. Credit: Finlay McWalter via Wikimedia (Creative Commons).

New materials of glass, steel and concrete were deployed at industrial scales and architecture was utilised to accommodate this new ‘lumpy’ financial capital. Its deployment was also enabled by planning systems which enabled land clearance and created large, single use, investable lots which could then be managed according to modern portfolio theory. Planning use classes and zoning, at an international scale, came not to reflect local planning considerations but to mirror global investor asset classes.

Exciting, innovative and often valuable new built environments may have been created in this process, but some socially valued, mixed, fine-grain community environments were lost. There has long been a public outcry against the worst 20th century environments but this seems to have widened recently on environmental, aesthetic and social grounds. Built environment professionals have since found it hard to recreate the ‘place-making’ skills and expertise lost in the era of big capital. The few vestiges of long term ownership, heritage and place-stewardship that survived the late twentieth century have become sought after not only by occupiers but also by real estate professionals trying to learn from their success. We now see that fine grain, mixed use, stewarded places are proving valuable and increasing in value while many late 20th century environments are devaluing. There is a growing fear that, in a low growth era, obsolescence and running costs will become a big problem in these places.



Canary Wharf, Docklands, London – glass, steel and concrete buildings utilised to accommodate 'lumpy' 20th century financial capital. Credit: Jamie Barras via Flickr (Creative Commons).

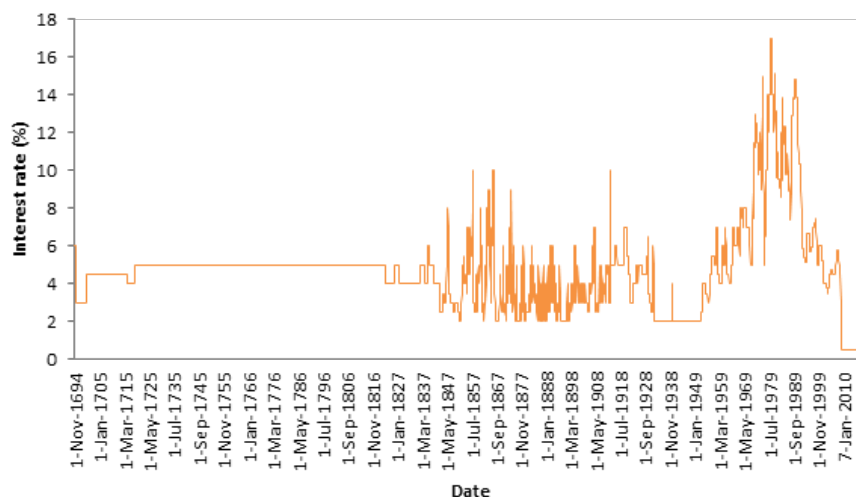
Rising interest rates could spark a new real estate industry focused on what people want

The question for many now is: what happens to real estate when interest rates rise (as they surely must do)? This is where it may be possible to spark a new real estate industry and where lessons of the past could be instructive. The chart on the next page shows the Bank of England base rate since 1694. It illustrates how abnormal the late 20th century was and, while also illustrating how abnormally low rates have currently fallen, may give us a clue as to what normal looks like. For two centuries prior to the 20th, interest rates averaged 4 per cent. A variety of contemporary early 19th century evidence suggests that not only did 18th and 19th century investors expect this sort of return from their bank but would have expected agricultural yields, income from stocks and shares, rental returns, shipping, commodities etc. to have yielded the same.

Current signs are that global investment returns are converging as the baby boomers age, need pension income and the name of the game for investing institutions changes completely. Global capital now deploys to create the income that the pensioners need. The name of the game in global capital markets is long-term NET income streams.

All assets are increasingly being valued for the longevity and quality of their income, rather than future capital growth potential. Little wonder then that yields on bonds, equities and real estate are converging and real estate income is becoming more and more sought after. In a low/stable interest environment, there is growing realisation that there can

be no capital growth without rental growth. Interestingly, average global net effective yields on real estate seem to be converging at around 4per cent (with notable variations). Could it be that investor expectations are returning to the historic ‘norm’?



Bank of England Base Rate, 1694-2019. Data source: Bank of England.

This is what changes real estate in the 21st century. Every investor has to become much more focussed on what people want. Their interests are much more closely aligned with their tenants because thriving communities with lots of human interactions and encounters is good economics: simple, flexible, adaptive buildings, managed for people and run efficiently with low energy will quite simply create better income streams than obsolete, energy hungry alienating environments.

Most of us now expect, barring unfortunate incidents, to live longer than our biblically ordained ‘three score years and ten’ (70 years) lifespan. Yet, by virtue of our individually limited time on this planet, we risk not being able to see the lessons of previous centuries and only the perspective of our own histories – and perhaps those of the previous generation. Investors generally, and particularly investors in real estate (which means home owners too), have been taught by the previous generation – and that generation does not see that it was exceptional and lived through exceptional times. The way we have done real estate in the past will not work in the future. Few people are aware that the returns that they currently expect from their real estate holdings, bank accounts or pension funds are relics of the past. Their financial expectations were smelted in the financial furnace of the late 20th century and forged in its dying embers during the early years of the 21st. It is now time to forge a new real estate industry which better integrates the needs of capital with the needs of people.

Beauty in the 21st century is not about style, architectural ‘isms’ or methods of construction, it is about providing people with what they need and want rather than just what financial capital needs and wants. It is about streets and buildings with integrity, authenticity and truth. To quote the words of Plato,

via Keats in his poem 'Ode to a Grecian Urn', "Beauty is truth, truth beauty". That may not be all a planner or architect knows or needs to know but may get them a long way in the 21st century. A built environment with integrity that works for everybody – now that would be beautiful.

Can beauty be found in office buildings?

by Robert Kerr

In a world where so much of life is consumed in an office and commerce drives much of society, it is a paradox that we are surrounded by so many dreary, ugly and bizarre buildings. Beauty should be considered as much for offices as for homes, given the necessity for new offices across our cities and towns. Indeed, many of the considerations made in relation to the *Building Better, Building Beautiful Commission Interim Report* (“Interim Report”) are relevant to this discussion. The concept of the ‘three scales of beauty’ that lies at the heart of the Interim Report – beautiful buildings, beautiful places, beautifully placed – can just as easily be applied to offices. Offices often feature prominently in our towns and cities due to their scale and are frequently used as landmarks. The way we are working, the nature of an office environment, and the integration of these buildings into our urban centres is changing and this gives pertinence to this revaluation of why beauty in an office is important. A continuation of building offices designed in isolation of context – both architecturally and socially – driven only by financial return, risks missing the added value that can be achieved from well-rounded designs. Beautiful offices will improve productivity, well-being, identity, and our townscapes. To take the opening quote of the Interim Report by Octavia Hill, ‘We all want beauty for the refreshment of our souls’. This is as apt for the environment in which we work as it is for our homes.

The value and economic priorities placed on those commissioning offices differs from those building homes. The need to serve a specific use class and to maximise the space available on a plot have historically been key drivers, and yet this should not preclude beauty in commercial spaces. Any argument to beautify these often-perceived utilitarian buildings requires careful financial pragmatism, but beauty does not need to be more expensive. It does not need to be more complicated; detail need not be more embellished or materials more expensive, indeed some of the most beautiful structures are the sublime in their simplicity. Beauty has social and economic value and, given the fact that the assets of any business are its people and economic considerations are sharpest in commerce, that this sector of the market has ignored beauty for so long would seem an oversight.

Beauty is more complex than the opposite to ugly, however, through reference to where damage has been done, it is easier to assess how ‘beautiful buildings’ might be designed. Office buildings, as with

houses, can quickly erode and disfigure the local identity and character of streetscapes if the detail is not considered. Fundamental consideration of height and scale in composition give a steady base on which to build beauty. Taking buildings higher than the surrounding urban form scars a skyline, or creates narrow canyons that funnel air and cut out light, impacting the enjoyment of those around. A lack of appropriate scale, or monolithic facades challenge the humane scale that allows familiarity with form. The absence of detail in a façade, something to break up the massing of these large buildings, that either stretch along the street or tower seemingly forever above exacerbates the overbearing nature of these structures. The manipulation of planes of the facade, the vertical and horizontal faces of the building, allows a play of light and shadow to give a sense of depth, rhythm, or hierarchy, helps integrate offices into their surrounding context. Considering buildings' interaction at ground level, the way they touch the ground, is vital, especially for those skyscrapers that are particularly striking. It is after all, the first four to six storeys that have the biggest impact on our streetscapes and can shatter coherence and unity. Some alignment of these all-important storeys with offices of the non-skyscraper variety can help integrate a building with the local character. And yet many offices today seem to ignore any such consideration, almost in wilful disregard and shouting out for unwanted attention. A similar lack of care or consideration of the materials used, the tone or grain, can have similar effect. Glass just does not 'reflect' context.



The Flatiron Building, New York. A building of striking form, composition and use of detail. Even the surrounding context maintains a sense of unity with different style and façade treatment. Image Credit: 'Flat Iron Building 6' by ahisgett is licensed under CC BY 2.0.

A beautiful office should not simply copy what is around it. Emulation, working with the same language, or style, might be the correct solution for a brief, but to blindly copy and not understand the language or intent of the original will inevitably lead to a poor design that will be filled with unresolved details. Bringing order to the parts that make up the whole does not need to be determined by an argument for a specific style, it should provide the freedom to achieve a beautiful office with differing stylistic approaches. There are plenty of rightly award-winning towers of elegant design that challenge the use of materials in innovative ways, or push engineering to the limit. These are fine but in reality, are a select minority. There are many more that try to copy what has been done around them, based perhaps on the estate agent's premise that if it worked next door it will work here, but fail to realise that these buildings work because they are designed well in all their elements.

Turning to the second string of the three scales of beauty, we can no longer consider designing our office buildings in isolation, as a singular building to serve a sole function. This is not just the use but the way the office will impact on those buildings and communities already around it. This is important in creating a sense of place but also in how the design of an office integrates the public realm into and around the office building. Offices have a strong a role in creating beautiful environments, and of strengthening and developing the local culture and character. The Royal Institute of British Architects (RIBA), in evidence given to the Interim Report, stated 'local culture is ... critical in determining what will be considered beautiful in a particular area.' Indeed, the aspiration of Policy Principle 2 of the Interim Report, 'beauty and the spirit of place defined and demanded locally', would apply as much for offices - and indeed if offices did so integrate this would only strengthen the beauty of place. Encouraging better local culture, promotes a sense of collective identity and in turn improves the value placed on beautiful offices.

Work patterns, the nature of office and the way we work together are all changing. The research carried out by ADAM Urbanism with Grainger, *Tomorrow's Home*, highlighted the shifting trends in the pattern of work. The impact of this is seen in the desire for more flexible working spaces, the integration into other uses and the need for more flexible office space, not just in size but in possible uses. Making office buildings beautiful, pleasant, healthy, happy places, will have a wider effect on all around, not just for those who use these structures. There are important physiological and psychological considerations in the design of offices and to fail on either is to fail in the environment created.

Flexibility is vital to ensure long term use can adapt to changing trends. Flexibility will, however, change the way that offices are designed, and we are seeing this in the additional facilities that are now built into designs. Communal spaces inside can spread to the outside. As a result, there is an understandable increase in focus in the importance of space around and between buildings of all types. It is realm which we all share and to which we all respond. Therefore, the interaction at ground level, not just in the building design as set out previously, also has an importance in the argument for beauty in this context. The urban realm, the spirit of place around offices, is changing and is changing for the better in encouraging more beautiful offices. The increased flexibility of work, including the rise of working from home, is breaking down the Euclidian zoning that has such a negative impact on our towns and cities. Commerce is being successfully integrated into residential uses, sharing these new spaces to make for richer places, increasing the diversity of people, extending offerings available to communities, and increasing profitability for businesses with extended business hours. Beautiful offices will integrate the whole lifestyle of those working and if well designed can only improve health and wellbeing. The beautiful offices of the future are not just a vision for the company that occupies them but the people who work there and live around them.



The integration of mixed use buildings with public realm to create a vibrant, beautiful place. Image Credit: "Brindleyplace sunshine" by feltip1982 is licensed under CC BY-ND 2.

Consideration has already been set out on the value of context in the design, of how these buildings contribute to the spirit of the place and how valuable the surroundings are to inform the design of beauty in offices. There is a final piece of analysis on how office buildings might be beautiful, and that is to take a wider view of the pattern of office development, their integration into the broader urban context and their impact on sustainability. Bill de Blasio, Mayor of New York City, announced in April a plan to ban glass and steel skyscrapers in the name of climate change. This bold statement poses an interesting question as to whether something that damages the environment can be beautiful or if these choices of materials and their subsequent poor environmental performance are right. At the core of most skyscrapers are many million tons of concrete, which has in itself a very poor environmental credential, so should we also be limiting height? This is not probably feasible in the current commercial world, nor with the pressures on space and premium of land available in the most desirable places for offices, however, it is a question that will be debated further in the years ahead and this conversation will develop.

The pattern of tall towers is perhaps most pertinent in consideration of the way beautiful offices sit in settlement patterns. Tall buildings serve a purpose in the right context, however often these buildings are conceived in isolation. They are often designed to be 'iconic'. There is no shortage of architectural awards given to skyscraper proposals, and no doubt much creativity is poured into the concepts. However, many fail to consider

practicalities of the people living and working in them, the context in which they will sit, or indeed how they will be perceived when placed alongside countless tall buildings whose designs seem more focused on their form than the way they might sit in their wider surroundings. We now have cities full of buildings and proposals that take on gratuitous forms, a trend to find a metaphor in form – The Octopus, The Cheese grater, The Cucumber – form often driven by the need to push the space available in the constraints of light, air or views. Oliver Wainwright’s description of the Nova Building in Victoria in 2017 as ‘a bright red preening cockerel’ tells you all that is needed on the intentions of this building. The judges of Carbuncle Prize described how it ‘sets a new benchmark for dystopian dysfunction’. While these buildings will always be commissioned, many with commercial success, the fight to outcompete the next will inevitably challenge the premise of beauty, blighting the cityscapes and identities.

Beauty has an intrinsic value both monetarily and culturally. Challenging the status quo to build for conventionally assessed profit, writing off detail as additional cost and flexibility as additional complexity, fails to see the possibility available to those commissioning offices. Just as the 1909 Planning Act aimed, ‘To secure the home healthy, the house beautiful, the town pleasant, the city dignified and the suburb salubrious’, so the context of beauty of an office must be found in a sum of the parts, not just of a concept in form or aesthetic. Perhaps the mantra for the future might be, ‘To ensure the work space balance, the office beautiful, the spirit of place, the city status, the commercial respect.’



Form centric, 'Iconic buildings' dominating and looming over cities. The offices in the foreground demonstrating how offices of different styles can be successfully integrated into the cityscape. Image Credit: "The Walkie Talkie 20 Fenchurch Street" by MarkGarth is licensed under CC BY-NC-ND 2.0

Why we should engage with communities and not consult them

by Ben Bolgar

When building a new home or development, does it matter what the neighbours think?

In the British planning system, this is an important question. Permission to build must be won from the state. Planning policies and decisions are signed off by local politicians. Votes in local elections can be won and lost on the issue of where and what new homes are built. So yes. As long as they have a vote and as long as local politicians want to stay in power, it matters what the neighbours think.

Over 25 years of working in development I have worked to this principle. On every scheme in which I have been involved, and all the ones proposed and built that I have observed from afar, it has been glaringly obvious that it is better to work with the grain of what people want built in their area than against it. Giving communities a say on the design of new developments not only makes securing planning consent easier, but it also leads to the building of better and more beautiful places. This is because when it comes to the sort of development that will make somewhere a nicer place to live, seven years of architecture school won't make you an expert. But living in the local area will.

Manipulated consultation

Unfortunately, most developers do not care what the neighbours think. There is an expectation from planning officers and councillors that local residents will be consulted, but more often than not this is manipulation rather than consultation.

In my experience, when developers consult with communities, they have usually decided the scheme they want to get planning permission for. Public relations and communications specialists are hired who will study the political make-up of the local council and develop a strategy to press the right buttons at the right time in the political cycle. Designers are employed to draw up what they are told rather than challenge the development model. Then a few 'money shot' images are pinned up in the local community centre and a series of carefully worded questionnaires are produced, each of which can be interpreted much like a horoscope: you get the answer you want. The press strategy ensures that communities are silenced, dispersed and the message is controlled through the local media.

This process is made possible by the general weakness and ambiguity of planning policy on the issues of design and community engagement. Planning has become increasingly abstract and word based over the years and this is one of the reasons very few guides or policies relating to design seem to have had any positive effect whatsoever. Unfortunately, in many cases they have provided a smokescreen to some developers building to a low quality, who have been able to regurgitate guidance line by line to justify their proposals to the local planners and planning committees.

Having spent the last 25 years engaging with communities, it is good to see that the latest planning rule book, the National Planning Policy Framework (NPPF), places greater emphasis on community engagement early on in the planning process. Local authorities are encouraged to create design documents like design guides and codes while communities are encouraged to shape new development through neighbourhood plans. Given only a patchwork of places (mainly wealthier ones) have a document clearly outlining what sort of development the local public support, this is welcome. Engaging with communities is very different to consulting them, as I hope to explain in the rest of this essay.

How to ask what the neighbours think

From traditional methods like public meetings and workshops, to methods made possible by new technologies like Virtual Reality and Augmented Reality – you can now see proposed buildings and places before a brick has been laid – there are a number of ways to engage local communities in the planning and design of new developments in their area.

The Prince's Foundation's method of community engagement is called Enquiry by Design (EbD). Communities are given the chance to co-design new developments in their area by considering a range of issues and looking at different design options in order to build consensus. They work together with specialists through dialogue, presentation and drawing to create a plan for their area built on consensus.

A rule of thumb in an EbD is 'pick up or shut up'. It may sound aggressive but it means 'if you can't draw it you can't say it'. This approach is important in overcoming abstraction. It gets away from building notional consensus around a series of abstract phrases and words. Instead it tackles problems head on by drawing things that are precise enough that people can agree or disagree with them. And herein lies the fundamental difference between landowners and developers *engaging* with communities and *consulting* with them.

Engagement vs. consultation

Community engagement is distinct from consultation for one reason in particular: it is genuinely democratic. Far from fearing the public raising their voices, people are actively encouraged to share their opinions through debates, feedback sessions and design workshops. The aim is for the final plan to be properly informed by a balance of opinion.

This is very different from trying to deliver what people tell you

they want: it is about finding the right balance of opinion between the landowner/developer, the local authority and the local community. To that end it is neither bottom up planning (community driven) nor top down planning (centrally controlled) but a balance between the two. Ideally a basic development framework is put in place by a local authority and details of how the development is shaped are informed by what local people would like to see more of in their area. The easiest way I have found to describe the EbD process is that it is like to going to the GP, albeit infinitely more enjoyable. The doctor has general medical expertise but the patient is the one that knows something may be wrong. When you visit the doctor, therefore, the first thing they tend to do is ask you how you feel. They do this on the basis that you know your body better than they do and so it helps them assimilate information more quickly. Having asked a whole series of questions they then tend to carry out an examination and decide if a further examination or test is necessary, sometimes by a specialist, before making a diagnosis and then suggesting a remedy.

This is very similar to many EbDs that *The Prince's Foundation* has run. The first public open session is all about listening to the local community and hearing what they like or dislike about their places and what their concerns are. Although this is done through general dialogue, the team collates information about the positive and negative attributes of their place, be they natural, social, financial, or of the built environment. The following day we have a series of technical briefings where all of the specialists are asked to make short visual PowerPoint presentations and put the issues and their analysis into a form that non specialists can understand. This means over the course of a few hours, with questions at regular intervals, everyone attending can grasp the full set of issues and the professional examination that is going on.

The drawing part of the EbD is critical. It works by mixing specialists with local stakeholders in holistic groups. Every group works on a plan for where to locate homes and facilities in relation to the existing context. When the plans have been drawn they are pinned up and presented and the commonalities between the plans discussed. A consolidation plan is drawn up based on the consensus of the whole group and then reviewed to pick up any further thoughts and ideas. Once a consolidation plan is agreed, people go back into their specialisms to work up details and strategies for the masterplan.

This means the community is actively engaged in the design process of making its place better and more beautiful. It builds trust and removes fear. Just like seeing the doctor, you may challenge the diagnosis and remedy at any point, but it is generally accepted they know more than you about the human body. Provided they are listening and competent, you trust them to be working in your interest.

When community engagement matters most

Community engagement is vital at three stages in the planning process: before a housing allocation is granted, before an outline application is submitted and before a detailed application is submitted. The method and level of engagement for each should be different.

1 Before a housing allocation is granted

Most large housing developments will have been allocated for development in the local plan. This happens after the local planning authority has issued a call for sites, where landowners are invited to promote their land for development, and it means the site is deemed suitable, available and achievable for development. Land allocated for residential development is scarce and therefore highly valuable.

Given the money that can be made from securing housing allocations and selling the site onto a developer, it is no surprise that the call for sites and the allocation process is combative and subject to both local politics and the resources of the developer. What is a surprise, however, is the lack of scrutiny applied to the track record of those applying for a housing allocation. It is almost always less than someone applying to be a junior member of staff in a normal office. For this reason land promoters, who do not tend to build homes, get treated in a similar way to landowners wanting to build legacy developments.

A return to proactive planning would help to address this issue. A set of objective criteria should be used to show local people the possible locations for where homes should be and why. It would then be for landowners and developers in those identified areas to offer the best solution for the community by working with them on a framework plan which would be assessed by a series of measurable objective criteria. The landowner with the best and most popular scheme would go to the front of the queue for an allocation. This would, I believe, mean proposals compete with each other based on the level of land value capture they direct towards the things local people want, for instance a high quality of building and mixed-use schemes which can provide long-term community dividends.

2 Before an outline application is submitted

At this stage in the process, communities can be engaged in putting the flesh on the bones of the framework plan. They can start to look at local topography, urban, architectural and landscape character, connections back to existing places and what the new scheme can do for the local community. It is increasingly the case that new development can be designed to incorporate the future needs of existing communities by offering housing types and amenities that may not exist locally, such as starter homes or elderly downsizing units.

Having engaged with local communities, the landowner who is prepared to sign up to a design code that reflects the agreed vision and adopts that code through land covenants should once again be given priority over a landowner who isn't prepared to go as far, or whose developer/promoter

has a track record in diluting quality once planning is granted.

3 Before a detailed application is submitted

This level of engagement should ideally be about exhibiting each detailed phase of a scheme in a public place and showing how it conforms to the design code that was adopted at the outline planning application stage. The benefit of doing community engagement properly and early on in the process is that this should be a formality and would ideally get people excited about what is going to be built. I have worked on schemes where local people attending the exhibition have wanted to put their names down for specific homes – a sure sign that engagement has worked.

What is equally important at this stage is that anyone who has changed their mind, or who wasn't engaged in the process, shouldn't be allowed to re-open the debate by challenging the scheme at this late stage. It must be up to the local authority and community to assess whether the scheme is a genuine reflection of what was agreed.

Incentivising community engagement

A clear incentive is needed for developers to ask what the neighbours think. In that regard, any developer who properly engages with the community rather than just consulting them should benefit from priority and speed in the planning process. They should know that resources spent on community engagement will lead to greater certainty of being able to build. This is particularly vital to smaller developers who are often crippled by the costs created by planning risk.

There isn't a silver bullet for building more beautiful homes, but demanding landowners and developers to engage with communities rather than consult them would be a big first step. Let's ask the neighbours what they think and listen to what they say.

How the Government can support landowners to build beautiful developments

by Charles Dugdale

This essay considers how Government can support landowners who wish to participate in residential development projects and impart their positive influence on design, quality and beauty. Positive action is needed to remove the hurdles currently obstructing their involvement.

There are many examples where the long-term involvement of landowners produced beautiful buildings. Many of London's finest districts such as Mayfair, Marylebone and Belgravia were laid out by landowners who retained the freeholds by offering residential leases and who exerted their influence over design and architecture. Edinburgh and Glasgow in the 18th and 19th centuries were built under the old feudal land tenure, whereby landowners retained a long-term interest. Their role as custodians of multigenerational assets is well known, so it should not be a surprise that this makes them a powerful and influential voice in the "building beautifully" debate. As the Earl of Moray, a landowner building the Scottish new town of Tornagrain, recently said "We are going to be around for a long time, so we're incentivised to do a good job".²

Landowners such as the Bathurst Estate in Cirencester; the Southwick Estate at Welborne; the Blenheim Estate in Woodstock; and the Duchy of Cornwall at Poundbury and Newquay (to name a few) recognise the benefit of the long-term approach. They are all genuinely trying to do the right thing despite a development system that, for a number of reasons outlined in this essay, is stacked against them. Their passion for the legacy of development is exemplified in an internal document produced by The Blenheim Estate, 'Principles of Legacy' (see extracts on the next page).

2. Princes Foundation, 2019, Housing Britain – A Call to Action, p.31

Extracts from a landowner's 'Principles of Legacy' document (credit: The Blenheim Estate)

- Be built for everyone and create a sense of community;
- Be inspired by the natural environment and use innovative design and local materials to reflect local distinctiveness;
- Strive to minimise the use of non-sustainable materials and be resilient to climate change, extreme weather events, and reduce carbon emissions;
- Enhance the local environment and leave it ecologically enhanced compared to before development started, ensuring proportionate and appropriate biodiversity net gain is secured;
- Ensure commercial return takes second place to community return which may result in softer rents to encourage viability – we believe higher re-turns elsewhere will result.
- Make the landowner proud of their development.

There is a “common aspiration” – a phrase gaining traction in the development world – to build places that foster social cohesion and indeed enhance the human experience at a local level. In June the CLA magazine and Knight Frank’s Rural Report published an article exploring how a building lease delivery model can align both the financial and legacy ambitions of a patient, willing and able landowner with a delivery partner. The model establishes a framework where both the landowner and delivery partner can share in the benefits if they build beautiful housing over a longer time horizon. The structure minimises the up-front investment in land that allows both small and large developers to participate alongside landowners and share in the advantages of successful place-making.

Timing issues, often driven by corporate and political pressures, are at the heart of the problem but are also the source of the solution. The conflict that needs to be addressed is the tension between the time it takes to build value, and the fact that cost cutting has an instant benefit to the bottom line. This means that shorter time horizons incentivise value engineering the construction process, while construction and delivery over a longer period is required to incentivise quality and aesthetic beauty.

The building lease delivery model is unlikely to be appropriate if a landowner, for reasons financial or otherwise, decides to dispose of its land – whether via option, promotion agreement or outright sale – at the outset of the process. Nevertheless, for those landowners and developers who are able and prepared to go down the ‘patient capital’ route and take a more active role in longer term stewardship, there is a workable alternative, and one that can lead to augmented financial receipts for both parties.

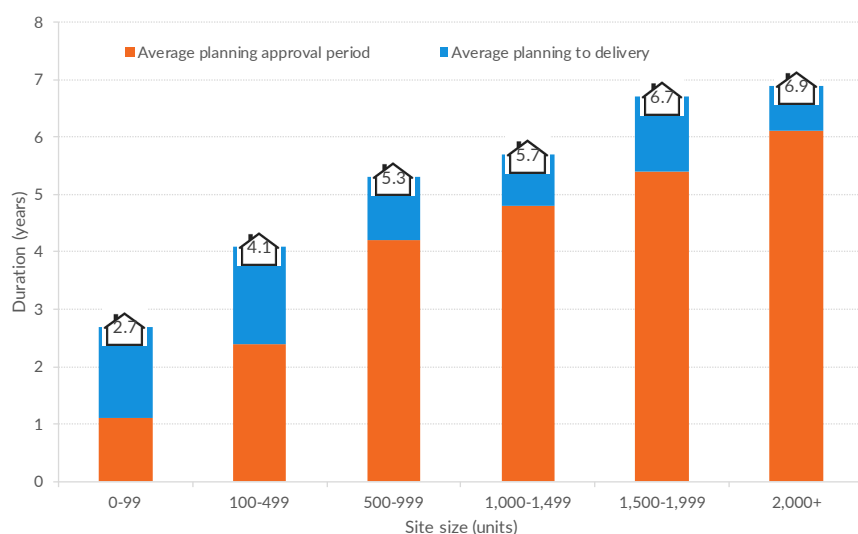
Working with landowners we know first-hand the challenges they face that often cause them to decide to exit projects sooner than they might otherwise have done. There are many, but we will focus on three of the biggest challenges: planning, infrastructure and tax.

Planning

We eagerly await the Government’s planning green paper that is due in Autumn 2019. We understand it will focus on accelerating the decision making process. The planning process currently takes too long, is too

expensive and therefore far too risky an investment for most landowners to bear. Research by Lichfields (see Figure 1) suggests that planning for the larger sites takes much longer than the smaller sites and on average over six years for the largest sites. The costs of planning can run into the many millions of pounds (and in my experience regularly over £10 million for major sites) and is completely at risk if the application is unsuccessful. The planning process must be simplified and accelerated to convince landowners and developers to embark on these legacy projects.

Figure 1: Average planning approval period and delivery of first dwelling analysis by site size³



A further issue is that once planning permission is granted it is likely to be time limited. For example, Millbrook Park in North West London was granted planning permission in September 2011 under the condition that all reserved matters (being layout, scale, appearance and landscaping) must be satisfied within eight years. This may seem perfectly sensible in the context of the conventional wisdom that planning permissions are being ‘land-banked’ and the desire to accelerate building rates, but let us consider the reality through the lens of the Millbrook Park case study. This shows how accelerative policy can in fact shorten the time horizon of development for landowners and investors, potentially compromising the time-frame required to execute high quality developments. This case study is just one example of how a policy designed to incentivise development has, in fact, adversely impacted decision making of a landowner who was previously determined to leave a legacy of beautiful homes. Within our recommendations, we have considered a number of measures that we believe will encourage landowners to progress planning applications through simplification, encouragement and flexibility.

3. Nathaniel Lichfield & Partners, November 2016, Start to Finish – How quickly do large-scale housing sites deliver, p8 Fig.4

Case Study: Millbrook Park, London

The Inglis Consortium (IC) was the partnership established to run the Millbrook Park project. It was formed from the relevant stakeholders being Barnet Council, Annington and VSM Estates (a joint venture formed from St Modwen and Vinci). It adopted the strategic land investment model (SLIM) set out in the Prince's Foundation's 2010 paper 'Delivering Sustainable Urbanism' with the IC being the 'Land Investment Vehicle'. It funded enabling activities and infrastructure and extended its investment horizon to capture the growth in land value over time. It established a design code to ensure a high quality built and natural environment. When assessing offers for each parcel the design ambitions of each developer was the IC's first consideration, in accordance with its belief in the long-term value of design quality.

Millbrook Park in 2017:



By 2017 the clock was ticking on the planning permission so the IC had the choice of either preparing another costly and lengthy planning application to extend their involvement in the project or accelerating the land disposal programme. Unsurprisingly, the IC opted to accelerate the land disposal programme. At that moment in time only 24 per cent of the consented units on the site had been sold. The development was a long way from reaching maturity, the community was in its infancy, and the landowner was incentivised to exit the project prematurely.

Planning recommendations

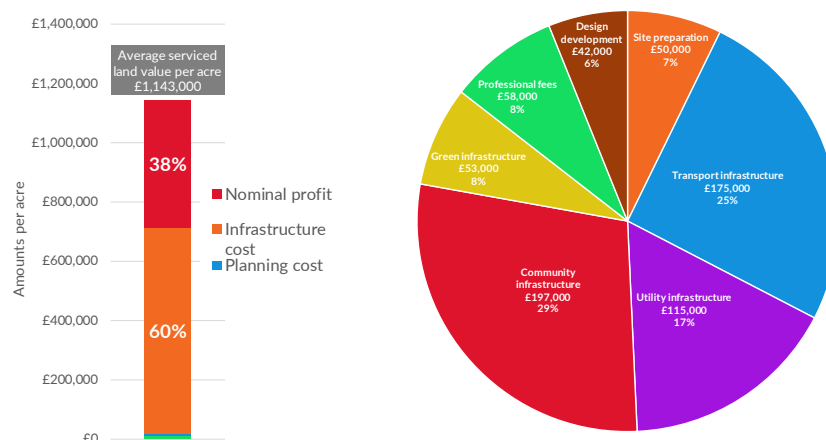
It is recommended that the following planning system reforms are needed to enable landowners to participate in development projects:

1. Measures to accelerate and reduce the cost of planning may include:
 - Sub-regional strategic plans that define the most sustainable areas for development, creating a presumption in favour of development (enabling an accelerated outline planning permission) if Local and Neighbourhood Plan provisions are met. The strategic plan should be blind to ownerships and follow only sustainability credentials.
 - Establish a patient capital fund to support landowners seeking to promote land in sustainable locations for developments of scale. The fund would procure expertise via consultants or a team within Homes England akin to The Advisory Team for Large Applications (ATLAS). Skills offered would include financial modelling, negotiation of equalisation agreements and tax advice.
 - Permitted development rights to enable the repurposing and redistribution of the floor areas of obsolete farm buildings into residential use within the area of a farmstead.
2. Measures to encourage longer investment time horizons may include:
 - Introduce a mechanism for extending the time limit on outline planning permissions where the landowner/developer can demonstrate enhanced design quality (eg. via an approved design code).
 - Deliverability test for Local Plan allocations to allow for Landowners to become master developers.
 - Depoliticise planning by directing planning applications for major sites to the Planning Inspectorate as an extension to its role as conceived within Section 62A of the Town and Country Planning Act 1990 (as amended).

Infrastructure

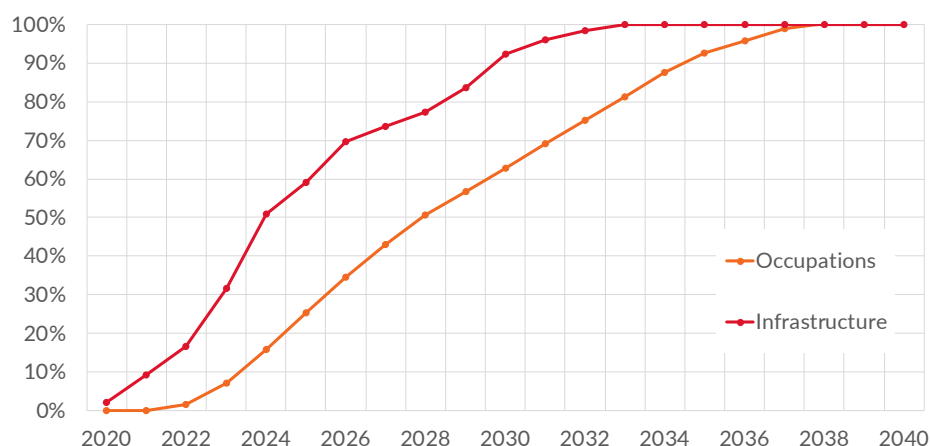
Infrastructure is the most significant cost to large-scale development projects. This point is illustrated by Figure 2 which aggregates data held on 20 residential development projects to illustrate that on average the infrastructure burden comprises 60 per cent (or approximately £690,000 per acre) of the total value expected from a serviced land parcel. All these projects propose between 1,000 and 10,000 units. Please note that the nominal profit per acre ignores the cost of finance and the time value of money, so is not an accurate reflection of the actual value of the land with planning nor an indication of profitability to the landowner.

Figure 2: Land value stack per acre, including the breakdown of the infrastructure cost per acre, averaged across 20 major sites (credit: Knight Frank LLP)



The impact of the cost of the infrastructure is compounded by the fact that infrastructure is typically a front-loaded cost, which precedes the revenue realised from selling homes. Figure 3 plots an anticipated infrastructure cashflow against anticipated sales for a typical project to illustrate the mismatch. In this project it is expected that over 50 per cent of the infrastructure budget will be expended when approximately 15 per cent of the units have been sold.

Figure 3: Forecast cumulative profiles of costs and income (credit: Knight Frank LLP)

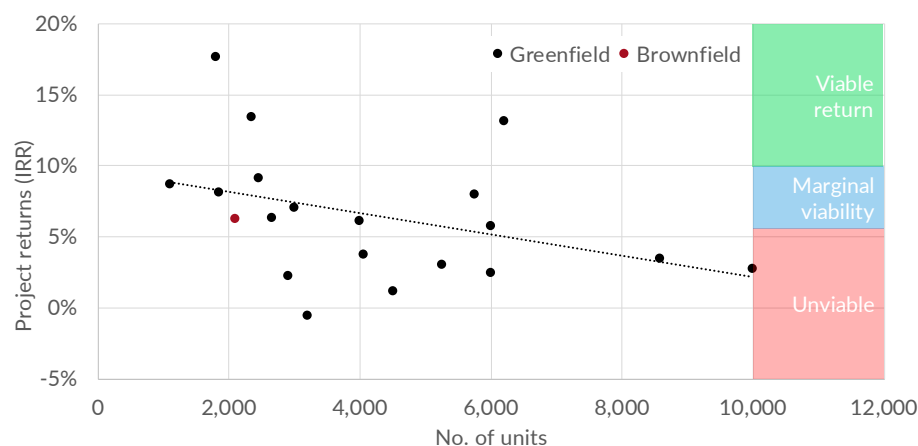


Continuing our analysis, we appraised each project using the Garden City & Large Sites (GCLS) financial model methodology. In case the reader is doubting the credibility of this model, please note that GCLS was specifically designed for long-term large-scale sites by the Advisory Team for Large Applications (ATLAS) when it was part of the Homes and Communities Agency, now Homes England.

The conclusions of the financial analysis are summarised in Figure 4, which plots the financial returns for projects of varying sizes. This suggests that 17 out of the 20 projects (85 per cent) are either unviable or have

marginal viability. There are many factors at play but in our opinion, none is as significant as the huge infrastructure burden being carried by these projects, in terms of both the quantum and the front-loaded timing.

Figure 4: Forecast returns of 20 sample sites between 1,000 and 10,000 units



Part of the reason why the infrastructure burden is so large is because all too often local planning authorities see these large projects as their big wins to cross-subsidise other strategic infrastructure needs. The major sites are therefore being asked to carry the burden of local infrastructure projects as well as funding their own new infrastructure. Conversely, smaller infill development projects tend to plug into existing infrastructure without contributing significantly to the wider infrastructure needs. This is counterintuitive. The Community Infrastructure Levy (CIL) is a potentially fair system, particularly where smaller schemes pay more pro rata than the larger schemes.

Funding the infrastructure is also challenging for a landowner. Here, Homes England could play a role as the lender of last resort. Currently European State Aid rules force Home Building Fund loans to be on a commercial basis; therefore, they must reflect the creditworthiness of the applicant. This means that a creditworthy PLC developer might obtain a loan with a margin of less than 1 per cent, whereas a landowner might obtain a loan with a margin in excess of 4 per cent (see table 1).

This could be the final stumbling block for a landowner who is trying to embark on a development project with the best intentions. They might have fought a planning system for almost a decade, put millions of pounds at risk for a planning permission that is so overburdened with infrastructure that it was deemed unviable and then, hopeful that they might be able to claw back a return over the long-run, they seek a loan to fund the infrastructure only to find that the lending rate is so onerous to them that they cannot justify continuing. They are therefore forced to exit and sell the project.

We are hopeful that Government can remove this final obstacle of an expensive loan that deters landowners from participating in a housing project.

Table 1: Margin Matrix of Homes England's Home Building Fund (credit: Homes England)

Creditworthiness	Collateralisation		
	High	Normal	Low
Strong	0.60%	0.75%	1.00%
Good	0.75%	1.00%	2.20%
Satisfactory	1.00%	2.20%	4.00%
Weak	2.20%	4.00%	6.50%
Financial Difficulties	4.00%	6.50%	10.00%

The Home Building Fund 'What does it cost' leaflet states: "As a public body, all loans provided by Homes England are subject to European State Aid rules". However, the Government's guidance on State Aid is clear that no State Aid exists if the good or service in question cannot be tradeable across member states. A loan secured to develop land with appropriate restrictions does not seem something that is obviously tradeable across European member states so perhaps the need to apply European State Aid rules might be challenged.

It would also be helpful to tailor infrastructure loans for landowners adopting a more patient approach. For example, the loan could be repaid as a tariff payment when dwellings are sold within a building lease delivery model. This would have the combined benefit of smoothing out the front-loaded infrastructure cost profile so that it matches the unit sales profile. This is only one way Homes England could adapt its loan models to suit landowners, but there will be other delivery models and a philosophy of flexibility should be adopted when a landowner is making a commitment to be the custodian of a beautiful development.

Infrastructure recommendations

It is recommended that the following changes are needed to support landowners seeking to participate in development projects:

- Encourage Local Planning Authorities to adopt and expand progressive CIL charging schedules that offer lower rates for strategic sites.
- Review the creditworthiness test in the Home Building fund in order that landowners can access lower loan margins.
- Adopt a more flexible approach to loan repayment, enabling tariff repayments at the point of unit sales.

Tax

Whilst I am not a tax expert, I have been fortunate to work alongside experts such as Alex Simmons of Safferey Champness LLP who has kindly contributed to this section of the essay. Alex has explained to me that the current tax regime encourages landowners to sell development land up-front rather than participating in the development for the longer term. This is due to the fact that an ongoing involvement is likely to result in a proportion of the receipts being charged to income tax at rates potentially over and above 40 per cent, rather than capital gains tax rates of 20 per

cent, or even 10 per cent if the land forms part of a business and the qualifying criteria for Entrepreneurs' relief are met. It is also worth noting that any share of the development profits charged to income tax are not available to be deferred under rollover relief in contrast to capital receipts on the sale of land used for business purposes. The timing of tax liabilities is also currently a deterrent for participating in the development as, to capture some value at capital gains tax rates, the tax point can fall as early as when the intention to develop it is first formed, rather than when the receipts of the development are received. On a large-scale development this can create real issues. Finally, when land is sold in a number of phases but significant up-front costs have been incurred, tax relief is spread over the development as it progresses leading to a significant timing difference between when the costs are incurred and when tax relief is obtained. This can create particular issues when loans to finance work on initial stages are recalled when receipts are initially received.

All of the above encourages most landowners to sell up-front and realise capital receipts rather than participating in developments for the longer term, despite most having an interest in achieving the best possible development.

To encourage landowners to take on the considerable risks of a development a number of changes could be considered, which we detail below.

Tax recommendations

It is recommended that the following changes are needed to tax regimes to support landowners seeking to participate in development projects:

- Legislation could dictate that receipts under such development projects will always be charged to capital gains tax to ensure that landowners are not facing a rate disincentive and could potentially qualify for entrepreneur's relief and rollover relief if appropriate.
- The timing issue facing landowners should be amended so that tax liabilities will fall due based on receipts from the development.
- In conjunction with the above, tax relief for the up-front costs should be front loaded to the initial receipts rather than being spread over the course of the development.

Conclusion

The above proposals focus on just three areas of a system that is not currently geared towards, and often actively frustrates, the delivery of legacy development projects. However, there is mounting evidence of significant community benefits that flow directly from better designed, visually beautiful schemes. Such benefits can include enhanced contributions to the local economy, increased social cohesion and resident engagement and improvements in environmental sustainability.

If the system can be adjusted to incentivise the stakeholders involved in such projects, the benefits will be for society as a whole – on both a local and national level.

Can volume-built housing be beautiful?

by Gillian Horn

A key question in the call for beauty in new housing is whether the current housebuilding industry is actually capable of delivering beautiful homes. Or whether beauty and volume-built housing are intrinsically irreconcilable. To get close to an answer requires understanding both what beauty means in the context of housing, and the operational realities of the housebuilding industry. Debating beauty in a housing crisis has come in for criticism, and indeed it is not the main driver of housing choice in this inflated and pressed market in which factors of price and location dominate. But there is a growing body of evidence that aesthetic appeal impacts on people's sense of wellbeing and community belonging. In this essay, while recognising that what houses look like is only a part of what makes a place to live feel beautiful – other critical factors include landscaping, public realm, and use – I concentrate on the look of volume-built houses, given its neglect in research and irreverent treatment in debate.

The question of beauty

Beauty is a tricky term to broach, as it comes with the baggage of implied universality on the one hand, and being of mere opinion on the other – residing in the 'eye of the beholder' and simply a question of personal taste. It's no wonder that it's been kept in the too-difficult-basket for so long and architects prickly at the mention of it. We need a way of framing the notion of beauty that skirts the conversation-barring extremes of objectivity and subjectivity. Rather than attempting to find a reductive definition of beauty, as if one idea of it fitted us all, we need to look for an expansive understanding of the various qualities of buildings and places that people find beautiful. Two hundred years on, Kant's idea of universal subjectivity remains relevant and offers a helpful middle ground to allow a reasoned discussion about aesthetic appeal. He astutely observed that when we judge something as beautiful we don't just judge for ourselves, but for all, as if beauty 'were a property of things' demanding others' agreement and delivering censure if they judge differently.

Beauty is not absolute and taste is not infinitely pluralistic. There are pools of consensus around what is thought of as beautiful, conditioned by our socio-cultural environments, through values that are both formally learnt and informally received. Thinking of beauty in these terms, as shared tastes for the beautiful, opens up consideration of tendencies and inclinations— allowing room for difference and fluidity. The question, 'what

is beautiful housing?’ then sharpens to, ‘what are the various visual characteristics of houses that different people tend to find appealing?’ – with an emphasis on the plural to accommodate the reality of multiplicities of taste.

We cannot provide a ready answer to this question. There is scant robust and precisely targeted research on visual preferences in housing and consequently little understanding of attitudes to physical characteristics and features that influence aesthetic choices. Anecdotally there is a presumption that the British public are nostalgic and old-fashioned in their architectural taste, with a proclivity for picturesque historicism. A number of quantitative surveys and polls from over the last decade seemingly endorse this position, with claims of a substantial public preference for traditionally styled contemporary buildings, although the quantitative approach taken in these one-liner surveys does not address the issues behind the preferences and so leaves the assertions unsubstantiated. At the same time, there is a common assumption that the tastes of the house buying public must be represented by the market, with the argument used that if they weren’t what people liked, they wouldn’t buy them. But it cannot be assumed that volume-built housing, which dominates new housing output in the UK, represents public preferences in a market in which demand has in recent years outstripped supply by up to 3:1, and housebuilders are recognised for representing shareholders’ interests ahead of public interest. We need more than engrained assumptions of what people like, delving deeper into public preference for the aesthetics of the built environment, to guide us in the delivery of beautiful new homes.

My research on the question on what visual characteristics people find appealing in housing has found an ambivalence towards the traditional aspect of the typical volume housebuilder aesthetic,⁴ and a general attraction to the visual interest of detail and embellishment associated with it⁵ – commonly thought of as welcoming and homely. Whilst there is less liking of houses stripped of decorative embellishment – often found to be stark and austere – I found a significant minority prefer a less embellished aesthetic. In an extensive online survey of visual attitudes, with quantitative and qualitative aspects⁶, almost a third of respondents preferred typical volume housebuilders façades stripped of all decorative embellishment, compared to the original façades, with over half of the 35–54 years old age band notably favouring this. These findings challenge the presumed popular love of the old-fashioned and highlight that beauty is indeed neither universal nor boundlessly subjective. This tells us that to be beautiful, housing must be aesthetically diverse, ranging from a clean and simple aesthetic to a richly detailed one – both with and without historical stylistic references.

4. This primary research is part of my doctoral thesis on the schism of architectural taste between the architectural elite and the lay public with reference to English volume-built housing.

5. This corroborates the research findings set out in CABE’s *What Home Buyers Want: Attitudes and Decision Making Among Consumers* report, 2005.

6. Preference responses between a selection of typical volume housebuilders façades and alternatives stripped of all decorative embellishment were evaluated. The study encompassed quantitative demographic analysis and qualitative investigation of open-ended responses to the question of what influenced the choices made. The research was centred on houses (typically suburban) rather than flats (typically urban) – as houses are both the most prevalent dwelling typology (representing 80 per cent of residential building stock), and the most produced new homes typology (accounting for example for 75 per cent of 2016 outputs), and the majority of dwellings (80 per cent) are located in suburban and rural locations.



The volume housebuilder-vernacular style (image one). Credit: author.

The housebuilding industry

Over the last three decades the housebuilding industry has become dominated by just a handful of volume housebuilders, the top three (Barratt, Persimmon and Taylor Wimpey) building more than a quarter of the new homes, with well over half of new private housing built by the top 10 housebuilders – who in the 1980s built just over a quarter. Independent reviews have addressed concerns about the ability of volume housebuilders to deliver the build-out rate needed, and the quality of their product, but not yet of their ability to deliver buildings and places that people find beautiful.

Although a 2008 Office of Fair Trading market study into the competitiveness of the housebuilding industry did not find a problem in terms of the economic operations of the industry (though a subsequent Select Committee of Economic Affairs Report *Building More Homes* has described the market as having ‘oligopolistic characteristics’), it recognised that in a demand-driven, locally-focused market, choice is very limited for homebuyers. Oliver Letwin refers to volume-built houses as ‘homogenous products’ in his recent review of build-out rates. But the aesthetic offer of the housing market is not publicly recorded.

My own research estimates that 85-90 per cent of the non urban new build house market is in what I call the housebuilder-vernacular style – characterised by its traditional, pitched-roof form, composition of punched windows-in-wall, and adoption of historical decorative motifs, including windows subdivided into a grid of smaller panes. This uniformity

is the result of a limited suite of standard products, driven by a notion of product refinement in terms of cost, performance and function – of being good enough – and not subject to much competition. Such mono aesthetic dominance in the housing market is problematic on two counts. Firstly, it stifles the richness of diversity and precludes local identity in its undifferentiated commonality. And secondly, it does not represent the breadth of tastes of the public, that I have outlined above.

The housebuilding industry is first and foremost a business, the trading unit of commodity for which is the house. Whilst the product of sale, the volume-built house, is the object around which the business of housebuilding revolves, it is actually a small part of the business success equation. It is a peculiar feature of the UK context that housebuilders combine land acquisition and development with housing construction. Here, the business of housebuilding is closely tied to mitigating the financial risks of its land speculation activity, and profitability is dominated by financial judgements on land purchase and turns in the housing market and economy. The house itself is only relevant to the business in as much as it needs to get sold to realise the increase in value of the land. As a result the house may not be as sophisticated a product as might be hoped for in such a large and lucrative industry. It lacks the invigoration of R&D, consumer market analysis and quest for improvement and refinement of competitive, successful products in the retail industry such as smartphones and sports trainers.

Housebuilding has proved to be a very profitable business for most of the post war years. A recent study of the performance of volume housebuilders by Sheffield Hallam University and the Centre for Regional Economic and Social Research found that between 2010 and 2015, the rate of increase of completions was one tenth of the rate of growth of profits (48 per cent compared to 484 per cent – equating to over £2 billion – over the period). Profits have since increased further: in this year Persimmon alone reported a profit of over £1 billion for 2018, equivalent to £66,265 from each of the 16,449 homes it sold last year with an average selling price of just over £215,000.

The issue is not about profitability per se – but whether this is the most appropriate business model for delivering the quality housing and successful long term communities that are needed. The folly of relying on the housebuilding industry to serve public interest, was noted in the 2007 Callcutt review of housebuilding delivery:

Housebuilders are not in business to serve the public interest, except incidentally. Their primary concern is to deliver profits for their investors, now and in the future – in other words, to ensure that their business is a good investment. Housebuilding executives are answerable to their investors, not to Ministers or the wider public. (Callcutt, 2007, p. 4)

The question is not whether volume housebuilders have the capacity to deliver beautiful housing – a handful of examples demonstrate that they can. It is whether they have the motivation to deliver it. There is no

incentive to deliver beauty in a sellers' market. Furthermore, there is no long-term custody to counteract the inducement of short-term financial gain – unusually, in what in many respects is a retail market, brand loyalty is not a feature, in part due to the infrequency with which people buy new houses. The legacy volume housebuilders leave is entirely unconnected to their sell-and-move-on business model.



The volume housebuilder-vernacular style (image two). Credit: author.

Recommendations

Even though the housebuilding industry has shown that it can occasionally deliver excellent and beautiful homes and places, its business model is not fundamentally configured to do so consistently. What can change this? How, for example could long term stewardship be introduced, as seen in the model of the Great Estates? Greater diversity of type and size of provider, as is currently being pushed for, may introduce some competition on the basis of quality and beauty, and thereby better results in these terms. But how can such fundamental changes to the industry be stimulated?

These are structural problems of the industry that will need to be solved for a chance of it being able to deliver the beautiful homes and places needed. And there is as yet no sign of such change. In the meantime there is an immediate role for process and regulation on a local and national level to set and scrutinise the parameters of beautiful housing. As part of this I recommend the following:

On understanding what people find beautiful: local preference surveys are not a substitute for thorough research, which is needed, through a Government funded design watchdog that researches good places, successful places and the attributes and things people like and look for in

an ideal home.

On committing to the importance of design: embed design in central and local government through the establishment of a Government Minister for Design⁷, and local design champions. A Minister for Design could elevate and promote the concept of good design across Westminster and Whitehall, providing a line of accountability to ensure that ideas and policies are scrutinised and design is debated widely, as well as taking direct responsibility for putting design principles into practice. This would include raising the value of design (long-term benefit) compared to cost (short-term advantage) in tender assessments for housing developments.

On demanding beautiful housing: condition the sale of all Homes England and other Government land to have prescribed, high standards of design, or commission the design for the sites and sell the land with planning permission to set exemplary benchmarks for beautiful housing.

On assessing new housing: all developments over 200 dwellings must be presented to a credited independent design review body, such as Design Council.

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Rediscovering natural beauty in the built environment

by Benedict McAleenan

To build, to plant, whatever you intend,

To rear the column, or the arch to bend,

To swell the terrace, or to sink the grot;

In all, let Nature never be forgot.

Alexander Pope⁸

It is, rather obviously, very difficult to define beauty. One person's avant garde is another's 'carbuncle'. Yet coming to some form of agreement on this is a central role of the planning system and the reason for Policy Exchange's work on the topic.

Perhaps the most persuasive response to this challenge has been that of John Ruskin, born 200 years ago this year, who wrote that buildings provide both a function and an expression of our moral values. In Ruskin's interpretation, a building might be democratic or exclusive, stark or cosy. It could be anything, but the beauty is derived from the effective expression of that underlying thought. "All good architecture" he wrote, "is the expression of national life and character."

What is the life and character of our nation in the early 21st century? There are lots of tempting answers, not all optimistic, and it would be wrong to argue that Ruskin meant for all architecture to follow a uniform aesthetic across the country based on some jingoism – a vague expression of 'Britishness' borne out in buildings.

Instead, I suggest we can create an aesthetic schema through the integration of nature, landscapes and sustainable raw materials within our homes and communities. With this approach, we can help to solve two of the deepest problems facing British society. One is climate change and the desperate need to address biodiversity loss. The other is a deep social imbalance.

As Policy Exchange's David Goodhart has framed it, Britain is divided between the 'Somewheres' and the 'Anywheres'. Somewheres are attached to place and community, but see these overlooked and dismissed by itinerant and elitist Anywheres. The division has run deep over the decades, resulting in, amongst other things, the vote to leave the EU. A new settlement between the two is needed.⁹

It is not hard to see the connection with Britain's current housing

8. Pope, Alexander, *Epistle IV To Richard Boyle, Earl of Burlington*, 1731

9. Goodhart, David, *The Road to Somewhere*, Penguin Books, 2017

problems. Housing shortages have been blamed, rightly or wrongly, on Anywheres (foreign and domestic) who happily snap up second houses as commodities rather than homes. Immigration adds to the issue. And the solution has been the creation of soulless ‘cookie cutter’ estates that could be found... anywhere. They lack character, identity, community, story and history. The result is the rejection of new housing by those who see its ugly anonymity as a threat to nearby communities.

At the same time, climate change and biodiversity loss threaten our stability and safety. Our housing stock adds to the problem: it is energy intensive in both its construction and operation and it is mostly unsympathetic to nearby ecosystems or natural resource management.

As ever, nature offers us solutions if we are willing to use them. By designing homes that make sustainable use of resources and that integrate nature rather than shutting it out, we can also create distinctive homes that reflect their distinctive landscapes. These are dual values: a sense of place and a sense of environmental purpose. And from those values, as Ruskin might say, derives beauty.

Beauty and the beasts

The concept of wilderness as the source of beauty has a long history in British domestic life. To see this, let’s go to Spain.

If you visit the beautiful gardens of the *Real Alcázar* palace in Seville, you’ll be awed by an exotic floral array, set carefully along straight pathways and rows that lead to fountains beneath lush palms. It is ordered, geometric and ornate, reflecting its Islamic heritage. Andalusian gardens like this and those at *al-Hambra* in Granada borrow from the Islamic tradition of geometric, straight pathways towards or alongside luscious pools. The tradition first evolved from a desert culture that treasured a garden’s ordered relief from a parched landscape. Not for nothing do we derive the word ‘paradise’ from the Persian word for a garden.

Wander further through the gardens and you’ll reach a more shaded corner, cooler on a scorching Spanish day, with an altogether different character. This area is greener, more meandering in its layout and mossy in its texture, with the illusion of a more ‘natural’ or ‘wild’ place than the rest of the palace. This area is called the *Jardín Inglés*, the English Garden.

The fact that the Spanish saw a messier, less manicured garden as somehow distinctly British should be a source of pride. It is echoed in France (see the *Parc du Buttes-Chaumont* in Paris), across Europe and beyond. And it was a conscious design decision of early modern Britain. Francis Bacon wrote a treatise in 1597 in which he decried overly managed gardens and called for the reintroduction of “natural wildness” into their design, including thickets and heaths. By the 1700s writers were rebelling against what they saw as French-style gardens and parks. A 1712 article in the *Spectator* complained that gardeners love to “deviate from nature”. From this rebellion against European tastes, we gained a wilderness. Our greatest parks and commons today are its beneficiaries. In summary, a little wildness is a very British thing.¹⁰

10. For an excellent account of the evolution of Britain’s parks, including the role of ‘wilding’, see Elborough, Travis, *A Walk in the Park: The Life and Times of a People’s Institution*, 2016, Vintage Publishing.

From this heritage and the troubles we face in our own times, we can derive a design approach that underpins both our moral values of conservation and our attachment to country and community. The common thread is the fact that nature is intrinsically local.

One criticism of the government's 'biodiversity net gain' policy (in which developers must not merely limit their impact on nature but should actively improve it) is that it wrongly implies that planting trees a few miles away makes up for the lost ancient woodlands you've just uprooted. Government has proposed a hierarchy to mitigate this, with on-site improvements as the first priority and only turning to a national list of habitat sites as a last resort, but the concern is reasonable. Ecosystems are literally rooted in their local surroundings. Yet this localism can also lead design decisions in a way that creates a distinctly local architecture.

What this doesn't mean is an agricultural pastiche, with thatched rooves popping up across the countryside (though this is gaining in popularity as a sustainable approach). But it can involve a strong nudge in that direction with a very modern twist. It was the new infrastructures of the 19th and 20th centuries that led to the end of ultra-local architecture. Cheaper tiles and bricks were brought in on new railways, replacing thatch and regional stone, such as that which makes Bath, the Cotswolds and Edinburgh so distinct. In the 21st century, our need to factor in carbon emissions might see this trend reversed. The carbon emissions of buildings come in two forms: energy efficiency when the house is being used, but also in the fabric of the building, known as 'embodied carbon'. If we truly factor this in, developers will tend much more towards local resources, meaning more use of regional raw materials.

Take timber, for example. Timber is lighter than steel and concrete and actually stores carbon, compared to their high emissions. It also lends regional character, with signature shades and grains echoing the tree species available in the landscape. Yet the English and Welsh use so little timber in their housing that regional supply chains – especially for hardwoods – have fallen away. This does nothing for our woodlands, which would benefit from sustainable management to promote carbon sequestration, biodiversity and resilience against the growing threat of pests and disease. South East England has a vast supply of 'overdue' timber and wood (that which has passed its optimal growth rate). Using more of it in the region's much-needed new housing would add to a regional aesthetic fit for the 21st century. It would also create a greater carbon store and lower the emissions of the construction process. We do not have to return to expensive artisanal techniques to add localised flourishes. Modern, highly efficient factory techniques allow intricate laser carving and bespoke detailing. New technology can breathe new life into wood as a construction material.

To achieve this, a huge step forward would be the recognition of embodied carbon in the construction industry. Options include differentiated stamp duty for lower-carbon buildings and planning policies that recognise sustainable, recycled and locally sourced materials. A more

comprehensive approach would be to include the construction industry in a post-Brexit carbon tax, with a carbon border adjustment to minimise carbon leakage, as Policy Exchange has argued.¹¹

Carbon pricing could create a system that prefers the local and rooted, but allows for innovation and technology. That is part of the challenge. The other part is to ensure that we can live alongside nature with a harmony almost entirely forgotten in the Anywhere developments of recent years.

A debt to the field

Alain de Botton makes a compelling case for better architecture as a duty to nature: “The building of new houses is typically synonymous with desecration, with the birth of neighbourhoods less beautiful than the countryside they have replaced... We owe it to the fields that our houses will not be the inferiors of the virgin land they have replaced.”¹²

He argues that the loss of “burrows for foxes and nests for robins” might be made up for by the high architectural merit of a modern Bath or Oxford. There are two assumptions implicit in this. Firstly, that the field really was filled with burrows and nests. Secondly, that it is enough just to pay a debt to nature with fine architecture that serves only a human purpose.

In fact, too much agricultural land is significantly lacking in biodiversity. Intensive farming, complete with aggressive pesticides and fertilisers, means that the burrows have been filled in, the nest is empty and the spring runs silent. Conversely, a typical garden can harbour nearly 500 plant types, 2,130 invertebrate and 64 vertebrate species.¹³ London is impressively biodiverse compared with parts of the countryside including, bizarrely, the Green Belt. Environmentally friendly land management should be incentivised as the priority, but if development is to happen, we should recognise the opportunity inherent in nature-supportive design.

On the second point, it is patently not enough to compensate lost nature with good-looking architecture.¹⁴ The government’s ‘biodiversity net gain’ policy enshrines this by requiring 10 per cent improvements to animal and plant life wherever development occurs. DEFRA has rightly ensured the priority for ‘net gain’ improvements is on-site, so that the loss is minimised in the first place.

When we recognise that we are drawing down from our natural capital accounts and factor the withdrawal into company balance sheets, we create a systemic incentive to minimise the withdrawal. Attaching financial value to carbon, natural resources and ecosystems creates incentives to tread more lightly. It creates a debt – a debt to the field on which we build – that must be compensated for in very real terms.

So far, we do this poorly. Carbon pricing is narrow and too low, but it has a promising future. Natural capital accounting is patchy at best, yet it is quickly improving. Government needs to ensure that these systems are truly included in the balance sheets of housebuilders and not easily excused away, as happens too often. The ‘net gain’ policy will go a long way towards this, but local authorities can do a great deal in their local policies too.

11. Rooney et al, *The Future of Carbon Pricing*, Policy Exchange, 2018

12. De Botton, Alain, *The Architecture of Happiness*, Penguin Books, 2006

13. Goulson, Dave, *The Garden Jungle*, Jonathan Cape, July 2019

14. To be fair to Alain de Botton, he is not arguing that this is enough, just that it is a moral minimum.

Local nature

What we need is more permeability between the wild and the domesticated. At the moment, there are five realms: the domestic, the garden, the public, the agricultural and the wild. We have relatively clear boundaries between them. The domestic has walls and roofing. The garden has a fence. The public is paved, manicured and drenched in herbicides. The agricultural is mis-incentivised to subordinate nature. And the wild is usually a long way away. Breaking down these boundaries to create a more natural beauty in our housing is the job of policy makers, architects, master planners, local authorities and homeowners.

It can be done in many ways that also enhance the beauty of a building. Green grass and colourful flower beds are just the start. Green walls and roofs break up hard edges and create interest for the eye. They also become homes for nature, not just barriers to keep it out. Permeable fencing and tunnels under roads can let hedgehogs and other small mammals in and out, building a connectedness across the landscape that isolated, cellular gardens would prevent. And we should not forget aural beauty: the chirrup and buzz of a meadow can be brought into a housing project by including bee bricks and bird nests within the walls of a house.

Beyond the garden, urban interplay with nature becomes even more pronounced. Trees are architectural anchors and way points. Common green space and ponds provide community focal points like a traditional village green – though updated versions could include a wilder scrub. Allotments and timber play areas make space for all to interact with nature and the community. Thoughtful design can create green streets and corridors for nature between its existing hotspots, like Berkeley Group's Kidbrooke Village, which connects two nature reserves in South East London via a 20-acre park filled with meadows, wetlands and swales.

Another quality of building nature into developments is that it helps them to age gracefully. As trees grow more dominant in their neighbourhoods and lichens and mosses flourish, they provide an impression that this place has always been here, that it's part of the landscape. But who is responsible for the upkeep of nature over time? After the developer is long gone, the cost of maintenance of green areas and trees falls to local authorities, who are not always willing to foot the bill. The inanimate and dead are easier to care for, so trees have been felled.

To keep things alive, the first step is simple: allow nature to take care of itself. We've become overly used to over-cut lawns and pruned trees. Let them grow and save some money. In time we'll become used to that as well. The value of 'wilding' has been demonstrated at the Knepp estate to great acclaim,¹⁵ but smaller and tamer projects can also achieve great things with guidance.

The second step: developers should pass the baton to others, such as wildlife trusts and botany clubs, to manage and steward a new community's natural capital. The trusts could in turn recruit the local community to use locally distinct plant varieties in their gardens or support populations of fauna that are regionally native. Local authorities could make this happen

15. See Tree, Isabella, *Wilding: the return of nature to a British farm*, 2018, Picador

by insisting on design partnerships with such organisations from a development's inception. The partner trusts could then receive a ringfenced portion of s106 or CIL payments to fund a covenant-based management programme. Thirty-year conservation covenants are already emerging as a key tool in DEFRA's strategy. Alternatively, local authorities who support biodiversity might qualify for DEFRA's payments for environmental services, since that is exactly what they provide.

The process and principles behind this dissolution of boundaries starts to mesh into a design theme. Principles such as permeability, connected nature and local sourcing will create a mosaic across the UK that reflects its surroundings better than the cookie cutter developments of recent decades. Berkeley Group has developed 'Nine Principles of Beauty' to integrate nature into new developments. Building With Nature is an organisation that accredits developments that apply its nature-friendly standards.¹⁶ Adoption of similar principles within Local Development Frameworks would go a long way towards implementing the 'net gain' and 'polluter pays' principles.

Legacy

The British love nature. We are what E. O. Wilson called 'biophiles'. Our membership of conservation trusts and charities is unusually large. In his treatise on conservative environmentalism, Sir Roger Scruton developed the concept of 'oikophilia' to describe a love of one's home, intimately connecting the ideas of home and nature. We have something in our cultural conscience that equates home with the wild. Is it any wonder that we find regularised, denuded housing estates an affront to our sense of place? Is it a surprise that a 'leafy' neighbourhood is shorthand for a pleasant or affluent one?

Uniting the sustainable and the beautiful isn't always simple; I look forward to the day that solar panels look beautiful, but it hasn't arrived yet. However, there is some fundamental thread connecting home, community and landscape. The challenges of this generation – housing, climate and ecosystem – are not only deeply connected but ever more pointed. Society's response to them highlights our shared values and should play out in the architecture of this century, which all returns us to Ruskin, where we began. Fortunately, he has furnished us with some lines that not only offer a way to frame the debate on architectural beauty, but also to see its prize. If we get this right, creating homes that work to improve rather than diminish the natural world, we'll leave a proud architectural legacy to equal that of any earlier generation:

"When we build... let it not be for present delights nor for present use alone. Let it be such work as our descendants will thank us for, and let us think... that a time is to come when these stones will be held sacred because our hands have touched them, and that men will say as they look upon the labour, and the wrought substance of them, See! This our fathers did for us!"¹⁷

16. www.buildingwithnature.org.uk

17. Ruskin, John, *Selections and Essays*, p.188, Courier Corporation

Homes for communities not profit: A mutual approach to delivering new housing

by Sara Bennison

Nationwide may not be the first name on your mind when listing house builders, but bringing people together to build better quality homes was the starting point of what became the modern building society. In recent years it is a role we have returned to. Our hope is that other companies join us in a new housebuilding movement, building beautiful homes in the right way with the support of local communities.

Returning to our roots

The concept of a building society started with the landlord of a Birmingham pub encouraging his drinkers to put money in a pint pot so they could save to build their own homes. When there was enough money in the pot, a home was built for one of the savers and this continued until everyone involved had a home of their own.

Gradually, permanent societies began to open, which provided smaller savers with a safe place to keep their savings and meant borrowers no longer had to wait their turn for a house. The 19th century founders of the building society movement were responding to an urgent social need for better housing. Their aim was to harness the power of the collective to improve living conditions for the so-called “industrious classes”. This social purpose, ensuring everyone has a good quality home, is still Nationwide’s mission.

The link between building societies and housebuilding remained strong through the early years of the 20th century. Nationwide was instrumental in the delivery of Letchworth Garden City and supported rebuilding efforts after both World Wars.

The housing problems of 2019 might seem a world away from Victorian slums or mass rebuilding after a global conflict but there are still vital issues that need addressing. Nationwide estimates that following the financial crisis, 1.2 million people who would have been first time buyers missed out on the opportunity to own a home. Property quality remains poor in parts of the private rented sector and there are long waiting lists for social housing.

More homes need to be built and a way needs to be found to ensure community support not community opposition. We also need to design homes so that they are still desirable in 100 years’ time – just like the houses in Letchworth.

Although our members no longer put their change in a pint pot, they still shape our work. Each year 1 per cent of Nationwide's pre-tax profits goes to good causes (including our own social investment work), and we work with our members to direct this spending. In 2015 they voted to make housing a priority and we wanted to find an exciting way of doing that.

Developing our model of not for profit socially responsible housebuilding

Reflecting the pioneering spirit of the building society founders we knew our approach to housebuilding had to be different. As a member rather than shareholder owned business, Nationwide seeks to optimise not maximise our profit. Crucially this allows us to think long term and experiment in a way other businesses may not be able to.

Our role as a mortgage lender also brought us into contact with some of the worst practices in the new build sector. From the abuse of leasehold to the poor build quality of some properties coupled with ongoing debates around Nimbyism, we felt there was a better way to deliver new homes.

Building on our social purpose and desire to optimise rather than maximise profit we took a new approach to development – something we call not for profit, socially responsible housebuilding.

By taking the profit element out of the development and instead seeking to break even, this model aims to deliver high-quality development, well designed homes and unlock sites that may not be attractive to the big housebuilders.

A new model for housebuilding

The not for profit approach has meant that Nationwide's intervention has unlocked a site in Swindon (where our headquarters are located) for housing development that had been empty for nine years. Instead of a demolished old school building site, concrete play surfaces and overgrown grass, there will be a development of 239 one to four bedroom homes to buy or rent. The site, known locally as Oakfield, was owned by Swindon Borough Council. Housebuilders were aware of it but none had come forward to develop.

Without Nationwide deciding to deliver homes in a not for profit, socially responsible way, it seems likely this site would have stayed empty, providing nothing more than an informal place for people to walk their dogs – something they'll still be able to when the homes are built. It also means the homes are genuinely additional supply not just homes that would have been built anyway once market conditions and builder's work plans aligned.

In developing the site, we didn't just want to impose a development on local people. Difficulties in getting local communities to agree to new housing development, let alone getting them to actively support it, are well known. Taking some of our customer service principles and knowing the importance our members place on speaking to a real person in a

branch, we employed a full-time community organiser to work with local residents. The aim was to listen first, design second.



An aerial view of the Oakfield development site. Credit: Nationwide.



A drawing of the Oakfield site layout. Credit: Nationwide.

Our community organiser, Keith Brown, didn't just sit in an office responding to inquiries but actually went to the homes around the Oakfield site, knocking on around 600 doors and getting involved with local groups and societies. We wanted to make sure this wasn't just a token

effort hidden behind a slick sales office or an impersonal email address.

A key part of this role was to ensure community input into the design of the development and the individual homes. Again, this wasn't a case of token consultation: the design was actually changed a number of times as a result of community feedback. A road through the site was re-routed to prevent it becoming a rat run, the amount of parking per house was increased and ceiling heights were raised to make spaces lighter and airier. Working with local schools we made sure that there would be a new park with high quality play facilities.

Our efforts to meaningfully engage with the community meant that there were no formal objections to the planning application for the site. This made that part of the process more straightforward.

Good design for the homes was another essential element of the scheme. Having never built houses before, Nationwide couldn't just pick standard designs off a shelf. So, in what is apparently a radical departure for mainstream provincial house building, our development manager, Igloo, set a stretching brief and guided architects to design the homes. Basing the design on a modern approach to the traditional Brunel Swindon railway workers cottages was our way of demonstrating the integration of the development within the town and our desire that the homes be as desirable in 100 years' time as they are today.

Beyond the design of homes, we want other aspects of the development to challenge the standard approach to housebuilding. We will be delivering our full 30 per cent requirement for affordable homes and this housing will be pepper-potted across the site - not isolated in a remote part of the development. The affordable homes will also be identical in design and build quality, with access to the same facilities including a community hub and a park.

Shares in the resident management company, which will take on the long term management of the development, will be given to the resident of the property whether they are an owner or tenant. We hope both these measures reflect Nationwide's mutual approach where all our members have equal voting rights whether they have £100 or £100,000 in their savings account.



Houses at the Oakfield site are designed with a modern approach to the traditional Brunel Swindon railway workers cottages. Credit: Nationwide.



Traditional worker cottages as part of Swindon's railway village, built in the 1840s. Credit: Peter Watkins via Wikimedia (Creative Commons).

What this approach to housebuilding can deliver

239 homes in Swindon is only a small step in closing the gap between current housing need and housing supply levels. However, we want this development to start a new movement in house building similar to the one that delivered Letchworth.

Nationwide is already looking at where we can deliver another development using the same approach. More than that, we want other big businesses to consider doing something similar.

There are lots of businesses that have cash on their balance sheets or corporate social responsibility budgets. We want to share our blueprint

for building housing with these businesses so what starts with 239 homes in Swindon becomes an approach used across the country to deliver thousands of homes.

Not every development would have to replicate Oakfield completely. One company may seek to use this approach to bring some empty homes into use, another may use some unneeded car parking space to deliver a handful of homes.

We see this as a way businesses could build homes for their employees or work with the local hospital to provide housing for key workers.

Too often the housebuilding debate becomes polarised between encouraging the large housebuilders to build more or producing a new generation of council homes. We hope our model can help a wide range of businesses contribute in a practical way to meeting housing challenges.

By using the community organiser approach and paying more attention to design we hope that these businesses will use Nationwide's model of not for profit socially responsible housebuilding to build better and more beautiful homes across the country.



The Oakfield development will be built with terraced tree-lined streets with spaces for people to walk and rest. Credit: Nationwide.

Government support for not for profit, socially responsible housebuilding

Nationwide will seek to spread our message and work with others to deliver Oakfield style developments, but we believe Government can also play an important role.

Any Government looking to re-energise its domestic policy agenda post-Brexit will need to focus on delivering better quality housing, particularly as the average age of the first time buyer rises and more families are living in the private rented sector.

Given ongoing political constraints and the difficulty in legislating to

fix the housing market Government needs to play a smarter, enabling role. It should aim to bring together innovative businesses with the right parts of the public sector to encourage best practice.

Our experience at Oakfield suggests that Government could play a crucial enabling role in establishing the model of not for profit, socially responsible housebuilding to deliver genuinely additional new housing supply, helping meet the target of 300,000 new homes per year. Government action could include:

Support in sharing our blueprint – Government's links with business, local authorities and public sector landowners would help spread the word about the approach and could identify appropriate sites. The Inclusive Economy Partnership, a network of businesses, civil society and government departments that are working together to solve some of society's toughest challenges, could be a good basis to do this.

A dedicated Homes England Housing Innovation Fund – Developments of this type do not necessarily fit clearly with existing Homes England funding streams. A dedicated Housing Innovation Fund, which can be accessed by certain new market entrants with innovative models meeting certain criteria, would help the model take off. A similar scheme has been set up by the Canadian Mortgage and Housing Corporation to fund new ideas and approaches to support affordable housing with the aim of delivering 4000 units over five years.

Low cost access to public land – Although removing profit from the housing development process allows more scope for good design and building quality, reducing the cost of land would allow more scope for additional improvements potentially allowing sites to be more innovative in terms of high environmental standards.

Social housing – more, better and beautiful?

by Greg Beales

Social housing. Beauty. Rarely are these three words connected in the popular imagination. In fact for many people the go-to mental image of a social housing development might be something ugly. Yet, in reality, if we are to rediscover a commitment to building beautiful then public house building must be at the heart of that rediscovery.

Why is that? Well first and foremost, if the Government itself isn't choosing to build beautiful homes when it invests in new housing, why should anyone else? If Government doesn't think design and style matter, if it doesn't prioritise future generations as well as those in immediate need, then it has no moral authority to lecture anyone else to do the same. It's easy, the private developers will say, for Government to be generous with other people's money. So if Government is serious about changing the culture of design, it must be willing to lead where it hopes others will follow.

Boris Johnson and our new Government appear to be serious about major infrastructure investment. They should be – Britain is urgently in need of the patient long-term investment infrastructure which drives growth and economic development. That infrastructure plan will bring with it a huge opportunity to build the homes we need – at Shelter we believe investment in new social homes should be the priority – and to do so in a way which breaks new ground in design and the built environment. For the Building Better, Building Beautiful commission to succeed it must recognise this.

A sector ready to build beautiful homes

If it does choose to pursue this vision of building beautiful social homes, then the Government will be aided by a social house building sector which, whilst still small and under-developed, is rediscovering the virtue in creating beautiful homes and spaces. The sector is revelling in challenging the popular but wrong-headed assumption that social housing cannot be designed to surprise and delight.

Around the world, architects and developers are taking advantage of the greater freedom and chance to innovate that now comes with public building. They are proving that there is no reason why a social home should not be both affordable and beautiful, and no reason why it should not be both a secure home for young and old and also at the forefront of innovation in design, energy efficiency and the use of space.

In Asturias, Spain, the design studio Zigzag Architects has built housing that blends with the nature around it. Open spaces are an inextricable part

of the design and the development opens up to stunning views of the surrounding landscape.

In Belgium MDW Architecture has developed the internationally recognised Le Lorrain social housing project, re-purposing an old iron dealer facility in Brussels with flats plus terraced maisonette homes with private gardens. The contemporary design pays tribute to the site's industrial heritage.

But innovation isn't just something other countries are doing. In the UK we have a rich but poorly understood history on which to draw. This year marks an important milestone in the country's housing story with the 100th anniversary of the Addison Act, the moment which kickstarted the first major social housebuilding drive in England. As we reflect on the past 100 years and the homes that have been built, it has been fascinating to see the outpouring of support and genuine affection people still hold for council homes. And yet, despite this affection, we live in a time where the delivery of council housing has fallen to historic lows. Moreover, funding and political will have become totally divorced from the much stronger public support for building a new generation of social homes.

Why social housing resonates with the public

Undoubtedly for many, their affection for social housing stems from the opportunity that these homes provided: the safety and security of a home at low rent that could act as a foundation on which to build a future. We all know instinctively that a safe, stable and secure home is an essential basis for a successful life. It's become popular for those with success in life to talk about getting there despite humble beginnings on a council estate. However, the reality is that for many it is precisely because of the solid foundation that their home was able to provide that they were able to succeed – a fact which more and more people are ready to recognise, from Adele to the Mayor of London.

Yet, today, for far too many, that opportunity is being denied. Millions of young people and families are now trapped in poor quality homes in the private rented sector, more than a million people are on social housing waiting lists and almost 280,000 people in England are homeless. It is those unable to access a social home who are struggling, not those able to benefit from one.

It is not just the opportunity that social housing offers that gives these homes and buildings so much resonance. Throughout the last 100 years social housing has also provided some of the very best homes that the country has seen. From the 'Homes fit for Heroes' of the 1920s, through to the expansion in quality, affordable council homes driven by Bevan and MacMillan in the post-War era. This is a tradition which continues today with new council-built homes like the Stirling Prize nominated Goldsmith Street in Norwich combining a truly contemporary design and ultra-low energy use with traditional English mews and small terrace design.¹⁸

Yes, there have been plenty of design mistakes on the way to accompany the design triumphs, and there is a reason why so many people still think of

18. <https://www.architecture.com/awards-and-competitions-landing-page/awards/riba-regional-awards/riba-east-award-winners/2019/goldsmith-street>

monolithic tower blocks, separated from the rest of the community, when they hear the words council or social housing. But these mistakes were the product of intense pressure in the late 1960s and early 1970s to deliver social housing with lower levels of investment and at a time of rising land prices. Inevitably, that squeeze led to poor construction methods and a deterioration in build quality, but there was nothing inherent to the fact they were publicly built.

Social housing can be at the forefront of beauty and design for the next century

In reality it is our current private sector development model simply that does not and cannot foster the type of innovation we need to solve a housing crisis and adapt what we build for new generations. The speculative building model, left to its own devices, will only ever drip out a steady supply of homes that bring minimum risk and maximum profit – keeping land prices high and development costs as low as possible. It is the way the current private market is operating that is driving out innovation and slowing the uptake of modern methods of construction (MMC) which have the potential to reduce build cost and increase build out rates. Whilst the private market is slow to take advantage, social housing can offer the stable order book that innovators like those investing in MMC need. In its report on modern methods of construction, the Housing, Communities and Local Government Select Committee stated:

“Witnesses told the Committee that MMC is particularly well suited to sectors that require high volume, repetitive designs that can be built off-site and transported to the building site to be erected. This makes social and affordable housing good candidates for the off-site approach, where there can also be advantages in the speed of delivery.”¹⁹

The nature of social housing – who it’s for, how it’s designed and how it’s funded – offers a clear opportunity to be at the forefront of beauty and design for the next 100 years. By creating the conditions for social housing to once again be delivered at scale, space would also be created for innovation, for freedom of design and most critically for the involvement of communities.

Social housing providers, whether housing associations or councils, have an inherent ability to think long-term, often more so than private sector developers, indeed they have an obligation to their current and future tenants to do so. Unlike the private rented sector, which is traditionally seen as a short-term tenure, social housing is intended to give people a permanent, stable home. It is there to provide a base for individuals and families to build on.

This purpose of social housing should also lend itself to great place making and design. In terms of ‘building better’ this obligation also leads to investment in energy efficiency, with a clear economic benefit for tenants ensuring that social housing providers are investing in delivering homes that minimise costs.

19. HCLG Select Committee, Report on Modern Methods of Construction Inquiry, 2019

The redevelopment of the Packington Estate, Islington, provides an award-winning example of a regeneration project delivering mixed tenure housing that fits well into the existing context. The regeneration is being carried out in a 50:50 joint venture between developer Rydon and housing association Hyde Housing. The architect is Pollard Thomas Edwards. The redevelopment saw 538 flats replaced with 791 mixed-tenure, but crucially tenure-blind, houses and flats across a nine-year programme (2010-2019).

490 are social homes, enabling existing low-income households to remain in what is otherwise a high-value housing market. The scheme has been funded by a combination of MHCLG funding and cross-subsidy from the 301 private homes that are being developed. Plans for the redevelopment were finalised after substantial consultation with existing residents. These consultations have also led Rydon and Hyde Housing to include family housing, local shops, a new park, community centre, an adventure playground, and youth centre.



Packington Estate



Packington Estate

MMC also offers much more than just helping us increase output. Precision manufacturing, for example, has the potential to deliver homes that are better quality and have a significantly lower carbon footprint over their lifetime.

In any programme to embrace MMC we must keep in mind the lessons of the past and ensure that a focus is placed on safety. The emphasis should be on using and investing in what has been proven to work – both at home and abroad – and on rigorously testing new techniques that are adopted.

In driving forward these innovative methods we must also maintain the link with communities and ensure we deliver places that work for the people who live there now and for those who will live there in the future. Innovations in how we build are important, but they should never come at the expense of delivering places that communities want and need.

Conclusion

My argument is that the Building Better, Building Beautiful commission should recognise the role social housing can play as a driver of innovation, change and good design. It should acknowledge that social homes can be beautiful, and it should bring forward recommendations which build on the inherent advantages the sector has in innovating and embracing change.

This will require investment, but we have a Government talking about prioritising infrastructure, and social housing is some of the most cost-effective and popular infrastructure we could build. Three million more social homes over 20 years could have paid for themselves by year 40 in part through reducing the cost of housing benefit in the long-term. They would provide a stable home for those in the greatest need such as people who are homeless, younger people trapped renting privately who will never afford to buy a home, and older private renters who need secure, affordable housing as they grow older.

Such a programme could embrace the very latest in modern methods of construction in a way that reduces risk and builds public confidence, using methods that are proven to work over the long term and internationally.

And it could involve and inspire new generations with bold designs and beautiful places making local people the stewards of their neighbourhoods and communities. Now is our chance.

“A Prescription for Fairness”:²⁰ Beauty and Public Participation

by Dr Sue Chadwick

Proust proposed that “beauty is a succession of hypotheses.”²¹ In that brief phrase he captured one of the essential challenges of embedding such a term in planning policy: beauty is an inherently subjective concept and mutates both with time and according to the aesthetic canons of the evaluating perspective.

Despite beauty’s subjectivity, research shows there is a general consensus on the sort of buildings and places that people want to be built. This does not mean that the public want everything to look the same, but there are a number of things on which we tend to agree, for instance that new developments should resonate with the places where they are built. The task for planning policy, therefore, should be finding and reflecting local consensus. To do that, we should start by asking whether our current system is properly equipped to ensure that everyone entitled to participate actually has a voice in the debate. In this essay I hope to answer that question.

While the nature of beauty is a question that all civilisations ask, the need to ensure public engagement in its achievement is a much more modern concern, built into the foundations of planning law. When Mr John Burns presented the Housing and Town Planning Bill to Parliament on 5th April 1909 for its second reading, he introduced the “portion which deals with town planning” as a chance “of giving to communities, especially growing and industrial communities, the opportunity of consciously shaping their own development in a better way than has occurred in the past.”²²

The views of Mr Burns echo throughout the Raynsford Review of Planning published more than 100 years later: “Planning reform is not at heart a debate about technicalities. It is about outcomes for people across all parts of our country, and about the prospects for generations to come. It is about aspiration for a better future in which we and our successors can create places of beauty and opportunity.”²³

How does the legal system operate to bring this about?

Consultation: legal principles

The legal framework for public engagement is largely shaped by regulatory requirements but fundamental common law principles, policy aspirations and supra-national legal rules are always relevant.

20. Royal Brompton and Harefield NHS Foundation Trust) v Joint Committee of Primary Care Trusts 2012 EWCA Civ 472

21. In the Shadow of Young Girls in Flower” Marcel Proust Penguin 2003 p292

22. HC Deb 05 April 1909 vol 3 cc733-98, para 736-737

23. Planning 2020 Raynsford Review of Planning in England Final Report TCPA 2018 Foreword

The importance of public engagement is embedded in national planning policy: Paragraph 16 of the National Planning Policy Framework requires that plans should be “shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees.” Paragraphs 39 and 40 also stress the importance of early engagement in the pre-application stage of any particular application.

The Aarhus Convention²⁴ – an agreement signed by the European Union and 46 states in 1998 – imposes an overarching legal requirement for public engagement. The Convention requires all signatories to make appropriate practical and or other provisions for public participation in relation to plans and programmes relating to the environment. Article 6(8) provides specifically that, “Each party shall ensure that in the decision due account is taken of the outcome of the public participation.” What it lacks in rhetorical impact is more than compensated for in its regulatory weight.

At a national level, consultation requirements are secured through regulations that require consultation on both planning policies and applications with relevant local authority departments, specialist third parties and the general public.

Above and beyond these formal regulatory requirements are a number of common law ‘Sedley’ principles – established by Stephen Sedley QC in a 1985 court case²⁵ – which require that:

- Consultation must take place when the proposal is still at a formative stage – at the point at which the consultation takes place the decision-maker must have a genuinely open mind on the action it takes as a result;
- Sufficient reasons must be put forward for the proposal to allow for intelligent consideration and response - consultees should know what is being consulted on, which factors will be taken into account and any criteria that will be applied;
- Adequate time must be given for consideration and response. In the absence of formal time limits, the body presenting the consultation should allow a reasonable amount of time for responses, taking into account any relevant guidance the number of people being consulted and the significance of the issues considered;
- The product of consultation must be conscientiously taken into account. It is not enough for the organisation just to receive the views of the public; those views should also be properly reported and explicitly considered even if they are later rejected.

Finally, although the Court of Appeal has recently confirmed that there is no general common law duty to consult,²⁶ the courts also recognise that where, for example a government body says that it will consult on something before making a decision on it, or there is an established practice of consultation on some kinds of decisions then the public has a

24. UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters adopted 25th June 1998

25. *R v London Borough of Brent ex parte Gunning* (1985) 84 LGR 168

26. *Kebbell Developments Ltd v Leeds City Council* [2018] EWCA Civ 450

“legitimate expectation” that the consultation will happen. If it does not, then the decision may be invalidated.²⁷

Failure to engage... and its consequences

Given this rigorous combination of statutory requirements and common law principles, it is surprising how often both local authorities and the Government find their decisions quashed as a result of deficiencies in the consultative process. There have been two such failures this year alone.

The first involved the Richmond Local Plan²⁸ and a 12.5 acre site subject to an application for a residential development but designated as Local Green Space in the draft plan. After the Examination in Public, the Inspector’s report recommended a number of modifications including rejecting the designation of the site as local green space. The Council consulted on the main modifications but did not make any significant changes in response to the consultation and the plan was adopted without that designation. The problem was that the modifications were not clear that they included de-designation of the site. As a result, the consultation was flawed because it did not make that fact clear either – and so no one had a real opportunity to make a meaningful representation on that issue.

The judge agreed. He noted that the Inspector’s recommendations, while “somewhat oblique” removed the special status of the site as Local Green Space. The Council did not notice that a *de facto* de-designation had occurred and nor did the organisation hoping to develop the land or the third parties hoping to protect it. As a result the consultation was “plainly inadequate” and “manifestly unfair” and the challenge succeeded. The plan itself survived – but the part relating to the playing fields was quashed. The Council has been required to re-consult on this modification, and to appoint an independent examiner to reconsider the issue with regard to the representations made.²⁹

The other case involved a challenge to the Government’s own National Planning Policy document, brought by Talk Fracking³⁰ alleging that the consultation process on the paragraph of the Framework (requiring local authorities to “recognise the benefits of on shore oil and gas development”) was flawed. Dove J acknowledged that there were “parameters which need to be observed” in the consultation exercise, and described the challenge to the consultation exercise as “the heart of the dispute”. He ruled that the exercise was indeed flawed: “I am satisfied that the consultation exercise involved breaches of the Sedley principles which are the requirements for a fair and lawful consultation exercise”. Since that judgment, the Government has issued a Written Ministerial Statement confirming that the offending paragraph has been quashed.³¹

These cases demonstrate very clearly that procedural and legal defects in the consultation process are almost certain to have significant impacts on the decisions they relate to – irrespective of the planning merits of those decisions.

27. *Richborough Estates Ltd v Secretary of State for Housing, Communities And Local Government* [2018] EWHC 33 (Admin)

28. *Jopling v Richmond-Upon-Thames London Borough Council & Anor* [2019] EWHC 190 (Admin)

29. https://www.richmond.gov.uk/services/planning/planning_policy/local_plan/local_plan_review/local_plan_examination

30. *Stephenson v Secretary of State for Housing And Communities And Local Government (Rev 1)* [2019] EWHC 519 (Admin)

31. <https://hansard.parliament.uk/commons/2019-05-23/debates/19052315000011/PlanningMineralResources>

Consultation futures

We are living in a digital age where Building Information Modelling (BIM) –a technology that can produce and assess digital representations of buildings – will play an increasingly significant role in the planning process. This is bound to include digital consultation as recognised by Allmendinger in his research for the Centre for Digital Built Britain: “having a common, BIM ready approach for consultation would allow greater sharing of data and quicker and simpler amendment of proposals”³² This increased access to public participation in the planning process seems to be squarely within the aspirations both of Mr Burns in 1909 and Mr Raynsford in 2018 in terms of broadening the scope and reach of planning through digital engagement

However, while the courts can be highly effective in ensuring compliance with the law, their approach in this area seems increasingly outdated. In 2014 the High Court was asked to consider the legitimacy of a consultation on a sustainability appraisal for a Local Plan document where the council published details of the consultation on its website, with comments invited by email.

When asked to rule on the validity of the consultation, Lindblom J noted that there was “potential for problems to arise” when a local authority relied solely on the internet for consultation. He was concerned that the only way of finding out about the consultation, or seeing the relevant documents, was by visiting the Council’s website. He described this as “not good enough” to comply with the statutory consultation requirements: “the crucial question is whether...it was an effective opportunity in that particular respect. In my view it was not.” He concluded that the consultation was carried out “in good faith but in a less than wholly effective way” and in breach of the relevant Directive.

Summary

The modern world is awash with data but recent cases suggest, firstly, that neither central nor local government do well at ensuring compliance with the basic legal requirements of public consultation, and secondly, that the judiciary is poorly prepared for a future where beauty is in the eye of the virtual beholder. The Government has promised a number of times this year that it will issue a Green Paper on Accelerated Planning. If the Government really wants to deliver a quicker, more equitable planning system where everyone has a voice in shaping a future-proof notion of beauty then it needs to be clear that e-consultation is every bit as valid as the paper exercise.

32. Allmendinger P and Silker F Urban Planning and BIM Centre for Digital Built Britain Mini projects Programme 2017-18 University of Cambridge 2018

How development can enhance the landscape and built heritage

by Richard Hebditch

Next year the National Trust will mark its 125th birthday. The National Trust can appear unchanging and eternal – after all our tagline is about looking after special places for ever, for everyone. But our work through a century and a quarter has always responded to the changing society, economy and environment. These provide the context for our work to protect places of natural beauty and historic interest.

Our founders were always clear that heritage, beauty and nature were not just something to preserve in isolation, but something that should be of benefit for all. There is a wonderful speech by Robert Hunter, one of the triumvirate of founders, at the University of Manchester. He said:

“The old city wall is not prized for its actual stones and mortar, but for the story it tells of the conditions of life in bye-gone times, of the habits and passions, thoughts and doings of our forefathers. And equally the beauty of hill and vale, wood and water, excites in us, not merely a delight in colour and form, but a subtle sense of the vastness and permanence of the physical world, of the weakness of man, of the late birth of the human race, and of the fleeting character of human life. Natural beauty, equally with historic association, stimulates the imagination and takes the beholder out of the petty cares and the small details of every-day existence.”

Bringing this up to date, the National Trust recently worked with the University of Surrey on pioneering brain research, which showed that meaningful places play a huge part in our emotional and physical wellbeing.³³ Functional Magnetic Resonance Imaging (fMRI) scans of the brain carried out as part of the research show that the brain generates an emotional response to places that people feel are significant to them, such as feeling joyful, calm and energised.

Further work by the Trust showed how places bring people together, both as locations where we interact with others but also because we want to share our love of places with other people. The spirit of a place gives us a sense of belonging.

So we know that the quality of places matters to our well-being. But what can we learn from the past?

Looking from our twenty-first century vantage point, we can romanticise the Victorians and the heritage of public buildings and suburban streets they created. The last few decades have cleaned up the dark Gothic buildings – St Pancras station, Manchester Town Hall, Glasgow’s tenements – that I

33. <https://ntplanning.wordpress.com/2017/10/12/proof-that-places-shape-who-we-are-and-what-that-means-for-society-today/> Places that make us - Research report, National Trust, 2017

remember when young, and revealed their colour and vibrancy. The inner suburbs in my bit of Victorian south east London are now the desired homes of the professional classes, and my parents' house in Poundbury mimics a nineteenth century vernacular (though it has to be said, owing more to Scotland than the traditional buildings of Dorset).

Yet, the rediscovery of Victorian buildings and architecture can blind us to the destruction and ugliness of the period. The Victorians were perfectly capable of building stunningly ugly buildings, of proposing to crash a railway line through Greenwich Park in front of the Queen's House, of eating up beautiful green spaces under the advance of monotonous ranks of terraces, or erasing historic coaching inns from Southwark (though the National Trust managed to preserve one side of the George Inn). The Victorians were probably the biggest destroyers of our natural and built heritage.

Public pressure could force changes to railway routes or protect some spaces, but it was not enough and the National Trust's liberal reformist founders looked to the law to provide better protection. The 1907 National Trust Act enabled the new charity to permanently protect the places it owns by declaring them inalienable and only to be overridden by a special Parliamentary procedure. Institutionally protected to provide public benefit, this has laid the basis for the National Trust's ability to look after some of the most special places over the last century.

For all the benefit the National Trust was able to bring to the buildings and places it owned, it was only with the development of the planning system that the country's wider landscape and heritage would be safeguarded. The National Trust spent much time trying to find ways to prevent sprawl in the inter-war period. But since the 1947 Town and Country Planning Act, we have been able to focus more on the places we own, opening more of them to the public, growing our membership and enabling more access, and making sure we look after our houses and countryside in the best way we can.

Recently, however, the planning system's role has become increasingly contested. It is blamed for both ugly development in the wrong locations and for holding back housing supply. Politicians have searched for something to break through what are seen as its defects, from Labour's carve out of national infrastructure in the 2008 Planning Act – which meant that infrastructure projects judged to be of national importance can bypass local planning policies – to the 2012 National Planning Policy Framework which drew the National Trust into the debate and which showed how much the public care for the quality of development and protection of nature and heritage.

The temptation can be to throw out the planning system and start again. But if not planning, then what? Policy Exchange's recent interventions in the debate have been welcome for recognition that the answers need to be not to start from scratch but to look at ways to improve what we have. Following on from Policy Exchange's work, the *Building Better, Building Beautiful* Commission has also produced a thoughtful contribution to how design and beauty can be better considered within the planning system.

The Commission could have just looked at the past and said things were better then. Its co-chair Sir Roger Scruton has talked before of a “law governed order” with classical architecture, where everyday buildings drew their inspiration from the grand temples and civic buildings of the time. Large urban estates of the late eighteenth and early nineteenth century followed suit, with single landowners able to control the way in which their land was developed.

Whilst these might have informed the crowning glories of civic buildings or the great estates in the nineteenth century, they came up against capitalism’s desire for a profit. Smaller builders needed to deliver quick returns to move on, and those that chased (and over supplied) the top end of the market had to accept those houses being split and split again into lodgings. As discussed, beauty, nature and history too often lost out. In a battle between culture (“law governed order”) and market forces, market forces have generally won.

So what now? The *Building Better, Building Beautiful Commission* helpfully sorts its recommendations into three areas:

- Beautiful buildings – considering windows, height, space and materials
- Beautiful places – the “spirit of place”, the nature of streets, squares and parks
- Beautifully placed – sustainable settlement patterns in the right place and sitting in the landscape

These are all predominantly public benefits, rather than for the private householder (there’s a benefit from living in the ugliest house in the area – you don’t have to look at it).

None of these are sufficiently incentivised when developers compete in the market. Given the constraints of land availability, developers will never generate enough housing supply for the choice between beauty, mediocrity and ugliness to create a general premium above and beyond other considerations like location, access to a good school or to good transport links.

Indeed, the speculative housing model tends to work against the principles that the Commission calls for. As Shelter have shown with their *New Civic Housebuilding* report, the competition for land between developers pushes up prices and incentivises developments that minimise public benefits that do not return an immediate profit.³⁴

So the Commission is right to look elsewhere to see its principles put into practice, and to locate its recommendations in the planning process. But there should also be opportunities for those developers who are not bound to the speculative model. Landowners and developers who retain a long-term interest in the developments they build should be able to better focus on the quality and public benefits they provide.

The National Trust’s approach to our properties is informed by what we call “spirit of place”. This is fundamentally about the unique, distinctive

34. https://england.shelter.org.uk/professional_resources/policy_and_research/policy_library/policy_library_folder/report_new_civic_housebuilding

and cherished aspects of a place, not just in terms of a more academic approach to its natural and cultural heritage but what the people who know it best value about it and what makes it special and different. This informs our approach to masterplanning for developments on land we hold for investment purposes.

There is a role for this approach more generally, for instance the growing interest in returning to the role of local councils. Whilst some council housing in the past was consistent with a spirit of place approach, too many developments overrode what was particular and cherished about the housing it often replaced.

As housing continues to be a priority for central and local government, we need the planning system to ensure public benefits are provided in developments, given that the market for land does not incentivise these. But we also need councils in their own developments and in their approach to Local Plans to use spirit of place to inform their work. The nineteenth and twenty-first centuries are very different, but what they do share in common is a public who care for the quality of the places being built and who want to see the green spaces and historic features of where they live protected.

Where does beauty fit into the mortgage process?

by Charlie Blagbrough

Building societies have been at the heart of our communities for over 150 years, lending on people's first homes, their dream homes and all the others in between. Some of these will have been well designed, beautifully constructed and meticulously maintained. Many more will have looked completely ordinary. It may surprise readers that beauty does not feature in the mortgage lending process, at least not explicitly.

Occasionally it does creep in, though not in the way we might expect. After all, while it is trite to state that beauty is in the eye of the beholder, it is important to recognise that subjectivity does not sit well with the world of finance, based as it is on cold calculations of capital risk weights and loan-to-value ratios.

Still, if any mortgage lenders were to be moved by beauty it would be those with deep roots in their locality, their backyard so to speak. This description continues to apply to the UK's 43 building societies, which are, for the most part, named after the places in which they were founded.

The Building Societies Association (BSA) has long called for a step change in the delivery of new housing supply, but we recognise Policy Exchange's challenge that these need to be beautiful, good quality homes if the country is to avoid some of the mistakes of the past, which have contributed to the hardening of public opposition to new development.

If you think of the way that most people buy their homes, mortgage lenders come to the table relatively late in the process. Prospective homeowners tend to wander down the high street looking through estate agents' shop windows. Alternatively, they increasingly spend endless hours trawling through Zoopla and Rightmove. After a long and often painstaking search it is hoped the customer will fall in love with a home they can afford, but more often than not they may have to settle for one that better fits their finances.

They may be armed already with a 'Decision in Principle' stating how much a particular lender might offer based on the customer's financial situation. They may also go to a mortgage broker with a figure in mind and ask them to shop around in the hope that a lender will match their expectations. This decision is based purely on the borrower's finances and does not take the property into account at this stage. Only later, when the mortgage goes through a full underwrite, will the lender instruct a valuation of the property to ascertain whether it will provide good security for the loan.

The valuation process asks two main questions: is the property worth at least the amount being paid for it, and if the worst happens, can it be sold for enough to recoup the money advanced. The RICS Red Book, which sets out the guidance to follow for a mortgage valuation states ‘The remit of the mortgage valuer is to provide an objective valuation opinion having regard to the lender’s policy and requirements.’³⁵

It is worth noting that the Red Book does not mention beauty anywhere in its 142 pages. Rather ‘value’ for mortgage purposes depends on a range of factors including:

- ‘the tenure of the interest offered as security and, if known, the terms of any tenancies to which that interest is subject
- where the property is leasehold, the length of the remaining lease term
- the location, age, type, accommodation, fixtures and features, and amenities of the property, including sustainability considerations
- the apparent general state of, and liability for, repair, form of construction and apparent major defects, liability to subsidence, and/or other risks
- the location of a property in an area known to be at risk from flooding or other adverse environmental factors
- any current or potential valuation impact of the Energy Performance Certificate rating
- any easements, servitudes, burdensome or restrictive covenants, and third-party rights and
- any obligations relating to planning conditions, for instance Section 106 agreements or restrictions related to affordable housing conditions.’

There is room in the valuation guidance for beauty to form an element of the market value, insofar as any fixtures and features make the property more desirable. However, this is in the context of the property’s location and the character of an area. A property that might look beautiful in one community can look quite ugly and out of place in another. A property’s value is ultimately determined by a judgement call on what someone would reasonably be willing to pay for it. All kinds of factors, including its beauty and uniqueness, enter into this equation.

Uniqueness is an interesting case. Is a thing that on its own would be beautiful, rendered more valuable by being the only one of its kind? Of course, in the worlds of art, wines, and classic cars, uniqueness or scarcity drives value almost as much as intrinsic beauty.

In the world of property things are more complex. Of course an architecturally unique property, or one with a lot of history will tend to be more valuable. However, for mortgage purposes, we also have to consider the worst case scenario. What if the property were to burn down – how much would it cost to rebuild, if it is indeed possible to do so? A mortgage valuation report will also contain a ‘reinstatement figure’ – essentially how

35. RICS Red Book UK VPGA 11 Valuation for residential mortgage purposes

much it would cost to rebuild, and this could make affordable insurance difficult to obtain at the extremes.

On the other hand, we are a nation that prides itself on being able to tell a Georgian home from a Victorian or Edwardian one. We value a neighbourhood with some character and many different architectural styles. Indeed, a property that would be beautiful on its own is somehow diminished if there are hundreds of others that are much the same.

Yet in recent decades, it feels increasingly like the look of new build housing converges around a small number of designs similar to each other and this feeling of ‘monolithic new developments’ certainly seems to drive much of the opposition to new house building.

Clearly, it suits the house-builders to standardise and commoditise the house-building process in order to deliver at scale and control output. Equally, you can understand why the proud owner of a listed cottage in some idyllic rural village might worry about new homes ruining the character of their little corner of the UK.

The BSA believes that in order to achieve a diversity of good design we need a diversity of builders, both large and small. A key strand of this is to encourage more self/ custom-build as a way to reinject local development models into an industry increasingly dominated by the big players.

While it is difficult to put a figure on how many homes self/ custom-build developers produce in the UK each year, estimates tend to be around the 12,000-13,000 mark, well below numbers in places like the Netherlands and Germany.

At the last count, 27 building societies were involved in providing self/ build mortgages. The number has been steadily increasing over the past number of years due to greater demand from consumers. This type of lending simply makes good business sense in the majority of cases. While lending for development purposes is often seen as risky, with self/ custom-build the borrower not only has skin in the game, but the anticipation of living in a beautiful home they have hand-picked, and perhaps even hand-built, once it is finished. This provides an extra incentive to get the job done.

While the more extravagant self-build designs get most of the attention, few projects actually fall under the archetype of a lavish eco-home built using a German-imported flat-pack kit. In fact, such projects are quite rare. Normally, a home built using self/ custom-build techniques will end up fitting easily into the character of the local area. While there will usually be something unique about the design or build – otherwise, what’s the point? – it is not unheard of for a self-build property to be traditional red brick.

Building societies are lending on the self/ custom-build site at the ex-Ministry of Defence base Graven Hill – where the UK’s first ever plot shop opened in September 2017. Following examples from Europe, particularly Almere in the Netherlands, which the BSA visited a couple of years ago with a group of Chief Executives and valuers, the plot shop is a place where prospective self-builders can go to choose a piece of land with amenities and planning already in place. This allows the builders to focus

on the design and build process.

In October 2018, we received the long awaited Letwin Review of Build Out, the key tenet of which was the need for diversity of type, size, style, design and tenure mix of homes on large sites. The Review also called for more plots to be released for self-build which seems an excellent way to involve local communities in designing new developments rather than seeing them as something imposed by others. In November 2018 over 40,000 people had declared their interest in a parcel of land through the Right to Build Register.

Of course, none of this is to say that volumetric ways of building cannot create beautiful communities, as long as design is at the heart of the project. The terraced homes at Vicars Close in Wells show that well-designed 'volume' building stretches all the way back to the medieval ages. While post-war prefab housing gets a bad name, the Barbican estate in London, with its walkways and water gardens, shows what brutalist volume building was capable of achieving with a consistently design-led approach.

More recently, Town House by Urban Splash is one of a number of developments that has regenerated the New Islington area of Manchester. Each home is precision-built in a factory using Modern Methods of Construction, with space and light fundamental to the stylish finish. Buyers of these homes can choose the number of bedrooms, whether they want them upstairs or downstairs and can customise how they want the living space to be laid out.

The BSA has made it a strategic priority to understand Modern Methods of Construction such as those employed at Town House. With any push towards 300,000 homes a year, we will inevitably require new thinking. While the UK remains a nation of brick lovers, there is growing acceptance of different types of materials and innovative building methods - something building societies are familiar with through their history in self and custom build.

As with any other type of underwriting, the key to widespread acceptance of Modern Methods of Construction lies in reducing risk. This is done by ensuring the homes built are rigorously tested for their durability and ensuring that repairs will not be too costly for the homeowner.

Pleasingly, the Government is taking the lead on this, and the BSA sits on group with representatives from lenders, developers, valuers, insurers and others with the aim of better communicating as a property industry. Ultimately, the goal is to drive greater standardisation, while of course leaving room for brilliant design and architecture.

Finally some thoughts on how we can drive more of the type of building discussed in this essay:

1. While Graven Hill stands out as an exemplar, both central and local government should look through their portfolios and release land, with planning and amenities, to create new self and custom build communities;

2. Each new garden town and village in the pipeline should have a self-build element, and an 'Innovation Sector' to showcase stylish, sustainable and innovative forms of Modern Methods of Construction, and finally;
3. Universities and further education colleges should be linked up with innovative developers, offsite manufacturers, and mortgage lenders, in their area to develop the 'trades' of the future.

What legal structures will facilitate legacy development projects?

by Charles Anderson

An ever growing number of developers and landowners have committed to building “legacy” developments. Although there is no one type or style of legacy development, it has been described as “popular development that delivers ‘walkable neighbourhoods’ with strong local identities, encouraging healthy lifestyles and minimal consumption.” Above all legacy developments deliver mixed-use and vibrant communities with high quality buildings and public space – the type of place where people want to live.

The delivery model of legacy development is in direct contrast to volume housebuilders (who build around two-thirds of new homes each year). Whereas the financing and business model of volume housebuilders is geared to demand profit and is realised as quickly as possible from a development – they are mostly publicly limited companies who must report to their shareholders each quarter – legacy developers take a longer term approach; their profit is dependent on the abiding beauty of what is built.

Currently only a few thousand homes are built each year by legacy developers. My hope is that this number increases and that legacy development becomes a more significant and recognised part of the housebuilding industry. There are a number of things that will support this to happen, from changes to the tax code, to changes to the planning system. In this essay I consider the role of legal structures in facilitating legacy development and argue that now is the time for them to be reformed.

The need for effective legal structures

Appropriate legal structures are vital to secure the landowner’s fundamental project principles for a legacy community, based on high quality masterplanning, design, and construction. They underpin the common aspiration to ensure that the project promotes and enhances reputation, as well as delivering the desired returns, both financial and social.

For landowners promoting legacy developments there are two key time periods that require effective legal structures.

First, the development (design and construction) period, during which the landowner, working with a developer or contractor, will be seeking appropriate control over the design and carrying out the works. Their

objective will be that the project accords with the design specification (the amalgamation of development's original master plan, planning permission, and subsequent design material to specify the detailed nature of the materials and works) at all relevant stages.

Second is the post-construction estate management period. Here, the landowner and other major stakeholders (including building owners, housing providers, and management companies), will want to ensure the stewardship control of the place they have built – i.e. the achieved design – and that it is aligned with evolving aspirations and technological advances.

When high quality design is already an objective of the public planning regime, using legal structures to protect the integrity of the development's design principles might sound odd – especially when they have been used at the landowner and/or developer's request. However, the unfortunate truth is that the planning system is ineffective at securing high quality development. Legal structures are therefore necessary not just to ensure the successful general outcome of the project, but also to deliver satisfactory investment assets. This is especially important because landowners are increasingly retaining residential and/or commercial facilities as part of their return.

Design and construction during the development

During the development period, design control and delivery covers a number of elements, namely: external layout, appearance and materials; building structures and systems; and, sustainability features increasingly internal features.

Legal structures and provisions in this period will cover two principal stages: first, the design specification including the all-important detailed planning permission and working drawings, and secondly, construction according to the design specification. The relevant provisions often involve detailed negotiations between the landowner, the developer, and the developer's consultants, but a successful outcome needs the landowner to have had a sufficient degree of control, to ensure that the project is delivered in accordance with the fundamental principles.

There are devices which may give levels of protection for the developer, such as referenced “Project Principles/ Common Aspiration Documents” or “benchmark schemes”, particularly with their guidance as to materials, layout, signage, and public spaces. Agreement over a specific role for the landowner's architect in the delivery of the design and the works may also allow for some certainty regarding the operation of the approvals process. Provisions for references of disputes to a third party, such as a foundation or trust experienced in legacy projects, may also allow a developer some comfort regarding the landowner's discretionary control.

As regards landlord control in the construction stage, a satisfactory legal structure may be by development under agreement – building licence – or lease, with provisions for certification of completion of works by the landowner and the related provision, whereby dwellings and commercial unit sales may not be completed without the relevant completion

certificate. A more favourable option for the developer may be a structure whereby the land is transferred prior to completion of work, but then only in phases and subject to Land Registry restrictions on sale and occupation, until landowner certification of completion of works.

The legal structures during this development are nevertheless matters for negotiation between the landowner and the developer which are then covered by contractual provisions in development agreements. These are not provisions where new law is needed. The issue is commercial and particularly as to the level of landowner control that may be imposed in the context of the market, especially in relation to developer viability concerns. If a landowner is overly-prescriptive in terms of house tenure and types alongside community infrastructure, delivery and build costs – materials and labour – may become prohibitive. Some promoters may need to achieve a balance between firm stewardship and collaborative guidance to ensure project principles and viability are protected.

After construction: legal instruments in long-term stewardship

In the estate management period, there are a number of options for legal structures. Each has its own technicalities or difficulties, particularly for a multi-phase legacy mixed use community. For proper post-construction stewardship of an estate, there must be protection and promotion of the estate design. Principal elements will be:

1. a design and community code, which importantly records and imposes the achieved design/works standard, in both e-form and hard copy;
2. legal obligations, which are part of the legal title to the estate, its dwellings, commercial units, and particularly:
 - 2.1. a general obligation to comply with the code, especially in relation to alterations, works, and a process for securing consent for works;
 - 2.2. stipulations on use, for example protecting the concept of private residential dwellings as single households to ensure a community of occupiers. Business use will also require special provisions, often a balance between allowing vibrant and flexible at-home working and artisanal trades, as against noisy or intrusive uses. Use stipulations are increasingly important with potentially more flexible building design, in the context of a project's initial aspirations.
 - 2.3. planning agreements and local development orders – community stakeholder covenants may be imposed both under planning legislation and as obligations within the legal title.

There are a number of potential legal structures to impose codes and title obligations, all of which have some drawbacks regarding legacy

developments:

Restrictive Covenants

This is the traditional method of imposing obligations on land works for developments where there is nearby, identifiable, retained core estate which has a demonstrable benefit from the covenants. However, they are not readily suited to a modern multi-phased self-contained community development and, indeed, in all cases enforcement is subject to technical issues as to:

- whether the relevant land has the benefit or burden of the covenant;
- who may enforce and be enforced against;
- the process for obtaining any consents for works or uses under the covenants; and
- statutory rights to discharge or modify the covenants.

Also, the covenants tend to be buried away in a lengthy and detailed Land Registry document – not the most readily available or understandable source for a workable estate management. Accordingly, a restrictive covenants scheme may not be simple or universal in its application across the estate.

Building Schemes

A properly constituted building scheme imposes a clear set of obligations (including the code and title obligations) which are enforceable by all owners against other owners. However, building schemes also give rise to technical issues and need well-considered provisions, particularly as they are based on fairly limited principles from a 1908 legal case; a number of recent cases have challenged their operation where there is lack of clarity.

Rentcharges

Rentcharges are a historic estate creation with a rent charged on freehold as a device to impose positive obligations binding successors. They are a means to overcome one of the restrictive covenants' technical issues. Most recently, developers have imposed rentcharges and their legal remedies, particularly a right to enter possession of the property for breach of the related covenants.

Rentcharges are not entirely satisfactory given their technical issues. Legal commentary refers to them to as “quirky and archaic” and “often misunderstood by practitioners”. As with restrictive covenants, rentcharge provisions are set out in user-unfriendly, technical legal documents. The remedy of entry to enforce the obligations is seen as unduly onerous.

Commonhold

The commonhold regime was an attempt by the Law Commission to set up a land obligation structure in a form similar to Australian and American structures and to provide for enforceable rights and obligations across

an estate development. There are detailed regulations as to the structure, particularly regarding the association and community statement. The structure has not been adopted to any significant extent, possibly reflecting the property industry's reluctance to depart from institutional freehold and leasehold structures. The Law Commission's Consultation Paper on Commonhold was published in late 2018 and the review continues.

The need for reform

It is now timely to consider reviews of legal structures, particularly with the focus of Government stakeholders and the public, on the quality of community development and the increasingly favourable regard for the legacy schemes that are up and running successfully.

In the estate management period, there is a need for a clearer, more effective, and less technical structure for the imposition of a set of obligations. This is particularly so for legacy projects with reference to a design and community code and a series of "stewardship" estate stipulations as to use, alterations, and community behaviour.

As long ago as 2008, the Law Commission indicated the "urgent need for reform" with a new category of land obligations. This, combined with recent public demand for a step-up in housing delivery and standards, has brought the welcome 2018 Government announcement to progress the draft Bill to introduce a more appropriate covenants structure for development schemes.

It would be appropriate also to introduce a more formal structure for building schemes, particularly to allow their application to large scale, multi-phased developments. There is no reason why building schemes should not apply when a landowner sells in phases to one or more developers, rather than the scheme applying just at the "developer sale to dwelling buyer" stage. Currently, the building scheme conditions require the imposition of the scheme only at the stage of sale of plots, whereas a stewardship landowner will want to impose building scheme provisions when disposing of phases to the developers in the knowledge that this is a recognised legal structure.

Principles for reform

There are still some key commercial principles which need to be incorporated into the legal structure. This is an issue that cannot be avoided by a Government committed to raising the quality of new development. Principles they should consider as part of any reform should include:

1. What is the entity that produces the design code and has the right to vary it? Is this a single stewardship estate owner and his/her successors, or is it a more democratised entity, such as a management company run by all owners of dwellings or commercial units? The latter option does come with its inherent potential for the loss of legacy status, if there is a populist move to dilute initial design principles.

2. What is the entity to grant consents under the code and title obligations? The same principles apply as to the party issuing and varying the code.
3. The promotion of the code and the title obligations. Under any legal structure, for these to be properly enforceable, there needs to be public awareness of their existence and terms. Even though the legal structure has these set out in formal Land Registry transfers and other legal documents, it is best for these to be included in the estate material, particularly online, and to be promoted regularly at estate management meetings and events.

Also, it is good practice to ensure that the structure material is included and explained prominently in initial sale packs with provisions for handover on subsequent sales and lettings? A key factor is the briefing to dwellings' conveyancers to ensure that they fully understand the structure and clearly explain the code and title obligations to buyers. Selling agents and conveyancers should be briefed as to sticking to the code and the title obligations with no unwarranted or unauthorised departures or assurances. For example, it might be stipulated that certain prohibited alterations or commercial activities may actually be permitted.

4. The extent of control of the management company entrusted with the provision of services. There may be loss of legacy control if a management company and its directors do not procure services to the standards required by the code, or if individual owners object to the level of charge required for services to meet code standards.
5. Review of the requirements of the Council of Mortgage Lenders and their forms of Lenders' Handbook and Certificate of Title, to ensure that they align with legacy principles established in codes and legal obligations.

Building what, where and when – and for whom?

by Simon Hodson

There is, at last, a universal acceptance that we have a housing shortage in the UK and that the majority of the shortfall lies in London and the South East of England. Some commentators escalate the current status to a housing crisis and often it is politicians who are blamed. Considering the overall robustness of the economy over the past 30 years, and the influence the state has on the housebuilding industry, it is fair to say that those in power have taken their eye off the ball. Not enough homes have been built and many of those that were are in the wrong place and built to a mediocre quality.

Yet to blame policymakers is to only tell half the story. As I argue in this essay, there are fundamental flaws in our approach to housing delivery. The prevailing, supply-led delivery model is inadequate to build the homes that people want in the places they want to live at the pace they are needed (current thinking indicates that between 240,000 to 340,000 net additional homes are needed per annum). The HM Treasury-commissioned *Letwin Review of Build Out* took a deep dive into the sector and is to be commended for some of its observations and recommendations. However, my concerns are more fundamental: do we really know what to build, where to build it, when it will be needed, and for whom are we building?

My fear is that we don't because the public are rarely asked what they want in terms of housing. This lack of information sustains a supply-side model that does not and will not deliver the homes people want.

The general house builder model

It is well documented that the vast majority of our new housing stock has been delivered by a relatively small number of developers, most of whom are large in terms of scale of operation, and generally national or regional. They tend to be funded by a pool of institutional or private investors, with a primary focus of optimising shareholder return.

The traditional house building delivery model predominantly builds optimised private sale accommodation at a cost efficient price in areas of high demand. It is important to understand that this model will always (and will only) deliver new homes at a rate that does not cannibalise its own "market", therefore always maintaining a level of under-supply, for the highest price that the local economics can tolerate. In times of famine or feast, the model performs accordingly to the market's prevailing condition – to minimise risks in down-turns and maximise profit in more

bountiful periods.

Help to Buy, the Government's headline policy for supporting home ownership, has had a significant impact on this model. Where local average salaries can't meet or therefore achieve local market pricing, products such as Help to Buy have "helped" close, maintain or even widen the affordability gap. Help to Buy has therefore maintained (under) supply, rather than brought about a more helpful, longer-term intervention. In the short-term, its contribution to additionality can't really be challenged. However, only time will tell what potentially unintended structural outcomes will result.

The principal housing delivery "model" requires enough land to be bought at appropriate pricing levels, in suitable locations, and processed through a challenging planning system (itself essentially governed and overseen by local interest). A mix of housing types and sizes are then delivered to accord with perceived, "national/regional demand". Most homes built are for private sale, with a nominal provision of affordable/social housing (which otherwise has an impact on the overall financial viability or performance). The private homes are then sold in digestible phases, at the optimum achievable price.

In short, that's what we have been working with – a very simplified history of our national housing delivery model which has dominated since the 1980s. In this period, a number of social, political and economic trends have changed and pushed up demand for housing at a pace that supply has failed to match.

The general house building model has not kept pace with societal change

Over the past 40 years, much has happened to impact our need for homes. During this period the traditional housing delivery model has been slow, if not incapable, of being able to adapt to change.

There has been a gradual shift towards urbanisation – a migration of people wanting to move closer to jobs, services and better infrastructure. This is felt the world over, but it is likely that the exceptional dominance of the services sector in the UK makes the trend particularly acute here. Compounding this, there has been a period of poorly anticipated population growth since 1996. This has run in excess of 100,000 per annum from 1996 to 2000, and broadly in excess of 200,000 per annum since.

Alongside internal migration within the UK, household formation is changing and we are all predicted to be living much longer. By 2030, 20 per cent of the UK population will be over 65 years old. This means that in a hypothetical queue of 100 people, every fifth person will be over 65. In this regard, the significant under-provision of age/care orientated homes is evidence of the irrelevance, or perhaps the obsolescence, of the existing housebuilder model.

Critically and most importantly, but widely misunderstood, interest rates have been next to zero since 2009 and this condition looks as if it will

prevail for some time. Any upwards shift will result in costlier borrowing with potentially next-to-flat house price growth.

An inability to significantly increase the rate of housing delivery – plagued by a creaking planning system, and scarcity of labour and materials – is clearly a pressing national issue. However, the primary purpose of this paper is not to ridicule our inability to run an efficient planning system, nor our failure to increase supply, and placate demand simply by building more of everything. Instead, it is to ask the more fundamental question of what do we really know about “live demand” – by which I mean what sort of homes the public actually want – on a national, regional or local level?

When it comes to Affordable Housing, we have a reasonable idea of what is wanted. Those in Affordable Housing are known as they are scrutinised for their eligibility for a discounted/subsidised home. However, what do we truly know about everyone else?

What do we need to know?

While periodic census information tells us a bit about household formation, and high-level information on economic and social composition, we are lacking a vast range of important data about the public’s aspirations regarding housing. The Bank of England commissions a useful annual survey, but it is limited to household income and spending. Many questions are going unanswered.

We don’t know much about the opinions of those living in existing stock. For example, what should we make of the increasing numbers of three-bed apartments in London being occupied by six millennials? Is this sheer desperation, or is it a sign that younger people are coming to support co-living? If it’s the latter, there is a strong case that a market might exist for rental accommodation with some shared facilities.

More significantly, is renting a desired form of tenure by young people looking for flexibility, or something that people are consigned to by the unaffordability of the sales market? Perhaps an affordable rental model, with a flexible and transportable lease with some security of tenure, could provide the flexibility that is allegedly demanded by the millennials and later living ‘nomads’ of the future? Again, the answer lies in data that is not collected in a meaningful way.

Similarly, what are the goals of first time buyers who are now looking for their second home? Would they like to upsize? Are they hoping to settle in the same area permanently, or would they like to migrate to other parts of the country?

For the expanding category of older people, the questions are particularly pressing. Many between the ages of 65 and 85 will be too fit and young-minded to consider moving into a retirement home. But perhaps their current home won’t really be what they want and need. Many will be asset rich and cash poor. Would they like to downsize now and have extra cash savings for retirement? If we could collect this kind of data, we can better understand how quickly homes suitable for retirees should be built.

One poignant recent statistic from the 2015 World Alzheimer Report

was that the number of people suffering from dementia is anticipated to double every 20 years. This will have a profound impact on the existing population and occupied housing stock.

Let's find out what people think by asking them

My conclusion is that at a time when society appears to be leaving a data footprint at every turn, we appear to know little about the sort of home in which people want to live. Fundamental shifts in our social and economic environment have had a huge impact on housing demand, yet our supply model has barely changed.

Successive governments have introduced policies and instruments that resulted in outcomes that commoditised our housing industry to a housing market. The general house building model now looks obsolete. We need to assess the condition of the 'new norm'. That can only be done by responsibly collating and analysing authentic live demand side data. This is something that can be produced by the private sector but which will need to be led by central government.

If we could accumulate such data, planning committees up and down the country would be able to make much better informed decisions, the "speculative" and cyclical nature of markets would be less risky, and more homes could be built based upon confidence and certainty. And when our construction industry is modernised through technological innovations and modern methods of construction, pace of delivery will make the industry more agile.

Only when we have such information can we readily create communities and places that will stand the test of time. Before we attempt to build a better tomorrow, we really need to know so much more about what to build, where and when – and for whom?

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