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A case for greater planning certainty

Is the British planning system flexible, practical and site-specific? Or could it be more accurately described as erratic, inconsistent, costly and time-consuming? As part of our project on Accelerating Housing Production in London, on 9 March LSE London hosted a roundtable to discuss the uncertainty inherent in our negotiation-based system and to ask what a more certain system might look like, and whether it would lead to more homes being built in London. The participants included developers, consultants and surveyors as well as civil servants and local government representatives.

Some countries (e.g. the USA) operate zoning-based systems, where a priori rules set out what type of development is permitted on a particular plot of land. The English system, by contrast, is based on site-by-site negotiation between local planning authorities (the boroughs in London) and developers.

One major uncertainty is the amount and type of s106 'developer contribution' that local authorities will require in exchange for planning permission often in the form of affordable housing. There are several other items that need to be agreed—one person described the challenge of getting agreement on all the various elements as like lining up 'a fruit machine'. Several attendees argued that negotiating contributions on a site-by-site basis is costly for both local authority and developer, often leads to long delays, and is opaque to public scrutiny. Perhaps

The situation has become increasingly complicated because of the government's 'viability' policy, introduced to address the problem of stalled sites in the wake of the global financial crisis. These rules say that developers can challenge s106 requirements if they would render a proposed development 'unviable' (that is, if they would mean the developer would not be able profitably to go ahead).

Opponents say these rules in effect give developers a second bite of the cherry, allowing them to reopen settled agreements. They also point to the lack of transparency in 'viability' discussions (the financial calculations on which they are based are generally considered commercially confidential), and the fact that few local authorities have the specialist skills in-house to produce or analyse viability statements.

One option for increasing certainty is to move to a 'tariff' system—that is, to apply an across-the-board percentage requirement for affordable housing on new developments rather than (as now) negotiating this for each particular site. Such a system would have more in common with the current approach to CIL contributions. Several attendees supported this, saying that the variability in the amount of affordable housing required was the biggest contributor to risk, and that long negotiations wasted time and money. Advocates said that the introduction of a tariff would undoubtedly produce some losers among developers and landowners. Equally some would gain. The impact on total value captured would depend crucially on how much supply increased. Some participants said that a tariff would increase output because of lower risk but by how much was less clear.

Housing Zones are seen as one way of making things happen. While there is no legal difference in the way planning applications are handled, Housing Zone status gives confidence that all the relevant players support development, and upfront partnerships produce rules about what kind of housing can be developed. There is also access to some GLA money.

Overall, there was broad agreement that a more certain system could contribute to accelerating development, but much less agreement about what an ideal system might look like or how best to move towards one.

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