

The planning system - faites vos jeux

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Everyone knows that we have a planning system – but it is by no means self-evident what it is really for. In its origins in the first half of the twentieth century, at a time of unregulated growth, it was devised principally to address serious concerns to do with public health and nuisance – for example, so that people did not have to live next door to a glue factory. But in less than 100 years, mission creep has set in and we now have a very complex system that can control – and in fact micro-manage, almost every aspect of building activity. Control of land-use is still at the heart of the system, even though your neighbour who wants to set up a business is more likely to be using a laptop than boiling-up glue – but the system now concerns itself with every conceivable detail of amenity and environmental protection.

Each new planning minister says they want make the system simpler – each leaves office having made it more complicated.

The planning system can be seen a paradigm of the 'nanny state', more than any other aspect of public administration. But it has ended up like this in response to demand. Given the complexity of the system, it is no surprise that obtaining a planning consent, for a project of any size, usually involves a protracted negotiation – a process now at the heart of the system, although the word negotiation does not appear anywhere in the Government's National Planning Policy Framework (NPPF).

The planning system tends to be more interested in how a proposal relates to the rest of the world than in the proposal itself – so a local authority's priorities may be upside down when compared with those of the client and their design team. And within a council, elected members may not have the same priorities as officers. Every significant planning application is looked on as an opportunity for the local authority to get things that it wants – within the scheme itself, or outside it, via the 'Section 106' system - a sort of

legally sanctioned 'brown envelope' which allows councils to ask applicants to fund things the council wants to see happen, as long as some tenuous connection with the project can be demonstrated.

The planning system has to operate under the pretence that it is rational and objective, but as practised it is a black art, and highly political, both with a small and a big 'P'. A lot may depend on whether decision makers like the look of your scheme – or indeed of you. And because there are so many different aspects that are negotiable, while any one point can be considered in the light of adopted policies and guidance, the degree of discretion within each subject area is such that in practice there is a table full of chips to be shuffled around.

Planning negotiations are generally carried out with the local authority's planning officers. Planning decisions for major projects, however, are made by elected politicians, who will be thinking about what their electorate will think – even though their task is meant to be to decide whether a scheme complies with the planning policies that they have set out. Planning officers are professionals (unlike politicians) – but their advice to you may be tempered by attempts to second-guess what the elected members will think (and it could be in your interests that officers do this.) The dynamic between officers and elected members can vary greatly from planning authority to planning authority. In some places an authoritative or forceful chief planner may rule the roost, and members are content for that person to make the running and vote for or against schemes as they are recommended. In a neighbouring council, members may undermine officers at every turn. Decisions can be capricious – officers may recommend a yes on the basis of twelve months of discussion, but councillors can say no in a matter of seconds at planning meeting, while you were trying to find the right page in the agenda.

The human factor is important in planning. A client wants their architect to design a great building for them. But without planning permission – in the UK at least – the great design won't get built. As well as being a designer, the architect needs to be a communicator, who can convince officials and politicians of the merits of their

design. They need to be able to tell a coherent story, in a persuasive way, about how the design is the right one for the place it will be built, as well as for the client's brief. They need to be able to listen to what is being said on the other side of the table as well, and to be able to judge when to stick and when to concede.

In conclusion, my five top tips for clients who seek to find their way through the territory sketched out above are:

- Personalities matter. Build relationships
- With your architect, present your case to the planners confidently, in a way that shows that you understand the planning system
- Remember that the planning system is more interested in the project from the outside in, while the client may be more interested in it from the inside out
- Work out what the council would like to gain from your project – which may be quite different from what you want from it and
- As a last resort: remember you can appeal against a refusal. You will get a rational hearing from a planning inspector, if you didn't get one from the local authority.