

## JOHN RATCLIFFE, MICHAEL STUBBS AND MILES KEEPING



**ROUTLEDGE**

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John Ratcliffe, Michael Stubbs  
and Miles Keeping

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# Urban Planning and Real Estate Development

## Third Edition

The twin processes of planning and property development are inextricably linked – it's not possible to carry out a development strategy without an understanding of the planning process, and equally planners need to know how real estate developers do their job.

This third edition of *Urban Planning and Real Estate Development* guides students through the procedural and practical aspects of developing land from the point of view of both planner and developer. The planning system is explained, from the increasing emphasis on spatial planning at a regional level down to the detailed perspective of the development control process and the specialist requirements of historic buildings and conservation areas. At the same time the authors explain the entire development process from inception through appraisal, valuation and financing to completion and disposal.

In recent years both planning and real estate development have had to become increasingly aware of their legal and moral obligations. Sustainability and corporate social responsibility and their impact on the planning and development processes are covered in detail.

Written by a team of authors with many years of academic, professional and research experience, and illustrated throughout with practical case studies, *Urban Planning and Real Estate Development* is an invaluable textbook for real estate and planning students, and helps to meet the requirements of the RICS and RTPI Assessment of Professional Competence.

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## **For our families**

(and the staff at Cliveden who saved Mike's manuscript, July 2007)

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Part One

# Introduction



# 1 Urban planning and real estate development: the context

## Town planning: an introduction

The modern-day planning system is a post-war invention, with roots that may be traced to the enactment of the Town and Country Planning Act 1947. The notion of 'planning' land use goes back further still, arguably as far back as ancient Greece when Piraeus was laid out following a 'grid-iron' street plan. Consistent throughout an examination of such urban history is that society affords a measure of regulatory control to the state (i.e. the government) to supervise the use of land. What best distinguishes the 1947 legislation is its scope; principally that it established a comprehensive and universal system of land-use control.

Then, as now, the system served the key function of balancing public and private interests. The creation of the post-war planning system effectively 'nationalized' the right of private individuals to develop land by stipulating that planning permission would be required for certain types of development. In return these 'applicants' were afforded the automatic right of appeal (to a planning inspector or to the Secretary of State) should consent be refused. This newly created system of town and country planning would exist to secure the interests of the community, in cases where amenity would be harmed. Amenity itself was never defined, and since 1947 to the present it has been interpreted (usually by virtue of legal interpretation in the Courts) in many ways.

The public interest would, therefore, take precedence over the private right to develop land and property (Grant 1992). Nevertheless, the private interest should not be unduly restricted or fettered, and in a variety of circumstances various freedoms, such as the right to extend a dwelling within a certain volume tolerance, would be deemed to fall outside planning control. Today, such freedoms from the need for planning permission are granted by subordinate (i.e. laid before Parliament) legislation, such as contained in the General Permitted Development Order and Use Classes Order (which permit certain building works and changes of use without planning permission).

What has changed since 1947 are the policy outcomes that the system is designed to achieve. In 1947 this meant post-war reconstruction. In the first decade of the twenty-first century, it means 'sustainable development', so that by way of example, government policy sets a national annual target that 60 per cent of

#### 4 Introduction

new housing will be built on previously developed land, including land that is vacant or derelict or currently has potential for re-development (DCLG 2006b) and that the planning system delivers both adaptation and mitigation strategies to respond to climate change.

A growing awareness of sustainability on an international stage has followed from work by the United Nations in hosting global summits in Rio de Janeiro (1992), Kyoto (1998), the World Summit on Sustainable Development in Johannesburg (2002) and on climate change in Bali (2007). At its most fundamental this subject area sets out to 'make less last for longer' (RICS Foundation 2002), so that future generations would still be able to use and benefit from environmental resources. One key area of environmental threat comes from global warming, as the production of carbon dioxide and other emissions (by burning fossil fuels and other industrial processes) traps some of the sun's energy and produces a rise in global temperature. Global consequences involve dramatic changes to weather patterns, melting ice caps and rising sea levels. At the 1998 Kyoto Agreement (Framework Protocol on Climate Change), the UK government committed itself to reducing the national production of such gases by 12.5 per cent (from a 1990 baseline) by 2012. This target represents a binding legal commitment, although the government have subsequently set a series of more ambitious targets, including raising the bar to a 20 per cent cut in carbon dioxide emissions (the most significant greenhouse gas) by 2010 and setting a more long-term goal to achieve cuts of up to 60 per cent by 2050 (UK Government 2005). Such an aggressive reduction (up to 60 per cent) within the next forty years or so is often put forward as the *minimum* target to achieve a stabilization of the climate sufficient to prevent extreme weather and associated population movement across the planet (Flannery 2006, Tyndall Centre 2007). Today, world-wide carbon emissions amount to some 3 billion tonnes released annually into the environment. Yet, how can the planning system affect sustainability or, to be more precise, climate change? This is *the* policy challenge for the system today and in the future. By 2007 the UK government had introduced a guiding set of national planning policy principles (in Planning Policy Statement One) that gave preeminence to the objective of tackling climate change over other policy outcomes (DCLG 2006a). The UK government is committed to the 'roadmap' established at Bali (2007) for the future international negotiations necessary to agree more aggressive cuts in carbon emissions.

Sustainability, as a distinct discipline or component of town planning, is only some twenty years old. The 1987 World Commission on Environment and Development (The Brundtland Commission) provided the first and still most enduring definition:

Development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

While research by the RICS Foundation (2002) reveals considerable disagreement over how to measure sustainability, there is overwhelming scientific and



demographic evidence in favour of action now. Statistical evidence is compelling. For example, the United Nations has estimated that by 2030, 60 per cent of the world's population will live in cities (United Nations 2001). In England today, 90 per cent (47 million) of the population live in urban areas, accounting for 91 per cent of total economic output and 89 per cent of all employment. The powerful and highly influential Stern Review into the economics of climate change (HM Treasury 2006b) concluded that failure to act now on the concentration of greenhouse gas emissions in the atmosphere would lead to serious impacts on economic output, on human life and on the environment.

The planning system is well placed to deliver 'compact' cities, based upon efficient land use in which integration with public transport and promotion of mixed-use development discourages dependence on the private car. By promoting and implementing more efficient land use, reflected in density, layout, design, and mix of uses in close proximity, the planning system can make a tangible contribution to climate change and thus affect environmental sustainability.

The need, therefore, to address matters of urban density and layout is pressing. Demographic (i.e. population) change means that over the next generation there will be a significant rise in the number of one-person households, especially amongst younger people. This significant rise in demand for housing presents an opportunity as well as a potential threat for the system. A 'spectre' emerges in which planning control is overwhelmed by this volume of development in the following twenty years, a prospect neatly encapsulated by Lord (Richard) Rogers and Anne Power writing in 2000:

We know that in this country [England] alone we may have to accommodate nearly four million extra households over the next twenty years . . . we can sprawl further round the edges of existing suburbs in predominantly single person households or we can make cities worth living in for those who like cities but do not like what we are doing to them.

(Rogers and Power 2000)

So this potential threat can be made into an opportunity in which development pressure is used to 'heal' the city by 'retrofitting' a new model of development into the existing urban fabric. The prevailing density of development in our cities must be raised and increasing amounts of urban land recycled. National planning policy sets a headline objective of 60 per cent of new homes on brown-land and a national minimum density of 30 dwellings per hectare. The delivery of new housing is being compounded by the market being unable to meet some of the regional targets set by Regional Assemblies. Indeed, in regions like the South East an ambitious target of around 33,500 dwellings to be delivered annually and for the next twenty years appears unlikely to be achieved by house-builders and housing associations, due to difficulties in releasing sufficient land at the right place and at the right time. How to best create procedural systems that will deliver a renaissance of our urban areas while maintaining many past principles governing the system (such as public participation) and delivering on