Retrofitting Our Cities For the 21st Century

Development Consent and Land Assembly
Shared Problems, Shared Solutions
HANDS ACROSS THE SEA.
Our Panel

• **Michael Humphries QC**
  • Francis Taylor Building
    • London

• **Dwight Merriam, FAICP**
  • Robinson & Cole LLP
    • Hartford
The Truth Squad: Keep Humphries and Merriam honest by enlisting audience input

• **Robbie Owen**
  • Pinsent Masons LLP
    • London

• **David Van Atta**
  • Hanna & Van Atta
    • Palo Alto
Retrofitting Our Cities for the 21st Century – An Overview

• Competition between cities in a global economy
• Advantages and challenges for older cities
• Some questions for our planning systems
  • are our planning systems fit for purpose?
  • are we delivering
    • housing?
    • work places?
    • transport?
    • utilities?
• Some reflections on shared problems and shared solutions
Competition Between Cities in a Global Economy

• How will cities compete in the 21st Century?
  • affordable high quality housing
  • high specification commercial space
  • education/knowledge hubs
  • communications systems
  • local/national/international transport links
  • “destination” retail and cultural centres
  • focussing on high quality of life
  • stable and fair political/legal/taxation systems
  • and, most importantly:
    attracting great people and companies
Competition Between Cities in a Global Economy

• The role of the planning system in 'facilitating' cities fit for the 21 century
  • enabling development of homes and work places
  • allowing easy movement and communication
  • providing infrastructure to support people and activities
  • mediating between competing land uses

• But the planning system cannot itself
  • create quality of life
  • create stable and fair political/legal/taxation systems
  • attract great people and companies
    • that is an outcome of everything else...
Advantages for Older Cities

• Large (fairly settled) populations
• Established commercial centres
• Great retail and cultural facilities
• Leading universities
• Range of housing opportunities
Challenges For Older Cities

- Dense urban fabric (few large development sites)
- High land values
- Expensive housing of variable quality
- Ageing infrastructure
  - transport/utilities/communication systems
- Historic buildings and open spaces that need to be protected
- Tightening environmental controls
- Well-organised pressure groups
Some Shared Problems...

How Can We:

• Create affordable housing in cities with high land values?

• Get people moving around and between densely populated urban areas?

• Accommodate population and economic growth within acceptable environmental limits?

• Provide infrastructure to support 21 century expectations in old (and sometimes ancient) cities?

• Achieve 'buy in' from local politicians and communities?
Some Questions for our Planning Systems

• Are our planning systems “fit for purpose”?
• Are we delivering
  • housing?
  • work places?
  • transport?
  • utilities (electricity, gas, water, sewerage)?
Are Our Planning Systems “Fit For Purpose”?

“Oh, yes, you need specific credentials to be a town planner.”
Are Our Planning Systems “Fit For Purpose”?

• Some issues
  • creating certainty and speed in decision-making
  • setting a framework for development
    • role of policy (if any)?
  • respecting our cultural heritage
  • taking account of environmental effects
  • dialogue with local communities
  • public access to environmental information
  • rights of appeal
SOMEHOW THE MODEL DOESN'T GIVE ME CONFIDENCE THAT THE SCHEME WILL BE OF THE HIGHEST QUALITY OF DESIGN.
Are Our Planning Systems “Fit For Purpose”? 

• US Successes
  • fast track permitting for certain uses
  • zoning overrides and burden shifting
  • unified development codes
  • Constitutional and statutory protection of property rights
  • brownfield investigation, remediation, development incentives

• US Failures
  • “floating” zones and planned unit developments
  • making the developer “eat the carrot”
  • rights of appeal to courts
  • federal and state laws
  • eminent domain misuse and inadequate compensation
  • fracking and groundwater policies
  • environmental justice
  • remediation standards
Are Our Planning Systems “Fit For Purpose”?

• UK Successes
  • clear hierarchical policy framework
  • strong protection of historic assets and green belt
  • sophisticated EIA procedures
  • separate infrastructure planning system
  • new Housing and Planning Act 2016 initiatives
    • permission in principle (hopefully)

• UK Failures
  • planning policy often restrictive and out of date
  • local planning authorities are under-resourced
  • decision-making can be slow and uncertain
  • public consultation often inadequate
  • strong 'nimby' culture
  • legal challenges to decisions are widespread
Are Our Planning Systems “Fit For Purpose”?

• Lessons Learned
  • speed and certainty in decision-making are key
    • efficient planning authorities require adequate funding
    • principle that development acceptable should be established early
  • clear and up-to-date planning policy can provide an important framework for developers and manage community expectation
  • environmental impact assessment is an important aid to decision-making; but should not be an end in itself
  • community “buy-in” can be essential
Housing

I see no problems, we can get lots more of these houses into the South East.
Housing

• Some issues
  • identifying sites in a dense urban environment
  • affordability
    • low income families/young professionals/gentrification
  • appropriate housing mix
    • micro-units/tiny houses/integrating residential types
  • residential units as an investment type
    • overseas investments/Airbnb/buy-to-let
  • identifying sustainable locations for new housing
    • mixed use areas/public transport hubs
  • office conversions
Housing

• US Successes
  • zoning overrides
  • impact fees
  • infrastructure support
  • regulatory acceptance
  • form-based codes

• US Failures
  • integration
  • low income
  • gentrification
  • alternatives to the automobile
Housing

• UK Successes
  • affordable housing as percentage of developments
  • higher densities in inner city areas
  • integration with transport links
  • re-use of brownfield sites
  • “starter homes” initiative (hopefully)

• UK Failures
  • failure to meet housing demand
  • housing very expensive in many cities (esp. London)
  • landbanking
  • buy-to-let has inflated prices
  • overseas investment purchases creating 'dead' areas
UK Case Study: Battersea Power Station
UK Case Study: Battersea Power Station

- Large underused development site
- Former Battersea Power Station - Grade 1 listed building
- Major residential-led development
- Extension of Northern Line (London underground) but, issues over
  - high proportion of overseas (investment) purchases
  - most units are expensive
Housing

• Lessons Learned
  • reducing personal vehicle movements will become increasingly important
    • higher densities will be required around public transit nodes
    • more public transit nodes will be needed
  • we need to incentivise developers to bring forward a percentage of “low cost”/starter housing as part of residential schemes
  • greater strategic thinking is needed about infrastructure support for inner urban housing
  • very high land values distort housing supply and will need to be managed
  • individual residential units as an investment vehicle should be discouraged
Transport

H.M. GOVERNMENT
MASS TRANSPORT PLAN
Transport

Some Issues
- local highway congestion
  - and its effects on journey times and air quality
- overcrowding on public transport
- creating new transport corridors in dense urban areas
- international transport links
  - ports and airports
- congestion charging
- bus and cycle lanes
- accommodating driverless vehicles
Transport

• US Successes
  • transit-oriented development
  • millennial decision-making
  • increased rail
  • busways
  • Megabus
  • Uber and the like

• US Failures
  • long-haul passenger rail
  • infrastructure maintenance
  • land use regulation around transit stations
  • little regard for climate change
Transport

• UK Successes
  • Planning Act 2008 and hybrid bills delivering major transport schemes between cities
  • congestion charging in London
  • dedicated bus and cycle lanes in inner cities
  • increased use of rail between cities

• UK Failures
  • uncertainty over airport policy is delaying better international links
  • road congestion and resulting delays continue
  • public transport congested at peak periods
  • congestion causes air pollution
US Case Study: Lyft to Light Rail
US Case Study: Lyft to Light Rail

- Free rides to stations
- “First mile-last mile” problem
- City of Centennial, Colo.
- Funded by PPP
  - $200,000 Centennial
  - $200,000 Southeast Public Improvement District
- 6-month trial
Transport

• Lessons Learned
  • it's hard to create new transport corridors in dense urban areas
  • the emphasis will need to be on
    • tunnels
    • cycle and bus lanes
    • frequency, reliability and smart technology (e.g. transport apps)
  • reducing air quality problems will become a central theme
    • this will strongly incentivise low emission vehicles
  • road user charging is an important tool
    • and can be used to drive AQ improvements and reduce congestion
  • the effects of driverless vehicles on road demand will need to be understood
Utilities

"We only cut our CO2 emissions to piss off the utilities companies."
Utilities

• Some Issues
  • particular problems of linear infrastructure projects
    • tunnels/overhead lines/cable ducts etc.
  • private utilities
    • some consequences of privatisation for public acceptance
    • powers of compulsory purchase/eminent domain
  • regional/national benefits vs local impacts
  • construction impacts for major projects in urban areas
  • public engagement
Utilities

• US Successes
  • renewable energy incentives
  • state-level decision making
  • federal incentives
  • state and local programs
  • separating sewers from storm water

• US Failures
  • electric grid
  • pipelines
  • micro-grids
  • coal-fired plants
  • public opposition to wind-power and solar
  • “all or nothing” nuisance and policy power decision making
  • adapting to climate change
Utilities

• **UK Successes**
  - strong government commitment to new infrastructure projects
  - Planning Act 2008 is delivering major projects
  - National Policy Statements for infrastructure projects
  - the new National Infrastructure Commission

• **UK Failures**
  - difficulty of balancing national/regional benefits against local impacts
  - lack of community acceptance of major projects
  - opposition to compulsory purchase by private (often foreign-owned) utility companies
  - compensation for compulsory purchase
UK Case Study: The Thames Tideway Tunnel
UK Case Study: The Thames Tideway Tunnel

• Hugely important environmental project
• Development within 14 local authority areas
• Major construction activities on tightly constrained sites for up to 6 years
• Sensitive environmental issues, including construction noise and ground settlement
• “Safeguarding orders” to prevent other development of sites before project granted development consent
• Legal challenges to secretary of state's decision to grant development consent
Utilities

• Lessons Learned
  • strategic thinking required to meet long term infrastructure needs
  • clear consenting and land assembly powers essential
  • linear utilities hard to retrofit in large cities
  • land assembly problematic given scarce sites are; land valuable and infrastructure a LULU
  • construction impacts can be greater than operational impacts for large projects
Reflections on Shared Problems and Shared Solutions

• Do we have any shared solutions to the shared problems posed earlier?
• If so, what are they – and do any of you have better solutions?
How Do We Create Affordable Housing In Cities With High Land Values?

• Moderating land values for housing will involve excluding alternative more valuable uses
• Non-planning tools will be required to “take the steam” out of the housing market
  • targets will include “buy-to-let”/overseas investment
• Residential developers will have to be encouraged to bring forward “affordable” housing
• House building rates will need to be increased
• Landbanking will need to be penalised
How Can We Get People Moving Around and Between Densely Populated Urban Areas?

• Focussing development on public transit nodes
• Increasing frequency, reliability, comfort, speed on public transit
  • bus lanes not only improve bus times, they reduce road space for cars
• Network of cycle lanes will reduce congestion and improve public health
• Taxis/Uber/car sharing etc. have a role to play (and require few central area parking spaces)
How Can We Accommodate Population and Economic Growth within Acceptable Environmental Limits?

• Reducing the carbon footprint of large cities will be a major challenge for the 21st century

• Likely to involve
  • creation of more sustainable, resilient building forms addressing global climate change
  • significant changes in transport modes
  • more tele-commuting
  • major move towards non-carbon energy sources
  • reductions in personal energy/water/waste usage

• Our planning systems will have to respond to and facilitate these changes
How Can We Provide Infrastructure to Support 21st Century Expectations in Old (Sometimes Ancient) Cities?

• Utility companies will need to be incentivised to bring forward 'difficult' inner urban infrastructure schemes

• Strong consenting and land assembly powers will be required

• Potential development sites will have to be “safeguarded” to stop alternative development

• Community impacts will need high levels of mitigation

• Mechanisms will be needed to overcome “short term” solutions
How Can We Achieve “Buy In” from Local Politicians and Communities?

• Understanding that development rarely brings direct benefits for local communities, but it often brings direct impacts

• Recognising that genuine engagement means sharing information and open-minded scheme optioneering

• Focussing on maximising benefits and mitigating impacts

• Land assembly compensation above open market value to reflect “compulsion”
Sousa prefaced the score with a quotation from the English diplomat, John Hookham Frere (1769-1846):

"A sudden thought strikes me; let us swear eternal friendship."