

Foreword

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The 49th Joint Planning Law Conference took place on 17 September 2021. The continuing Coronavirus pandemic meant that, for a second year, we came together online. We held our first “Not the Oxford Conference” event in 2020 (without publishing any papers) and this was our hybrid-format, big budget sequel. Rather than the Oxford Union, our stage was set by the Hopin conferencing platform. Instead of having to navigate the walk from New College to the Union, or work out where the Red Room is, delegates this year enjoyed the challenges of remembering their login password; discovering how to use the “Expo” and “Networking” functionality; and finding their way to a virtual Main Stage.

Our virtual mosh pit welcomed seasoned attendees alongside JPLC newbies. It was gratifying this year to see so many new delegates at the conference, no doubt boosted by a “Next Gen” initiative that saw several companies and chambers becoming formal supporters of the conference and funding the provision of free tickets, to more recently qualified built environment professionals and others unable to afford or justify the cost. The committee are grateful to Argent, British Land, Dentons, Francis Taylor Building, Herbert Smith Freehills, Quod and Town Legal for their support.

The “Next Gen” initiative was launched in memory of Stephen Ashworth, from Dentons, who died a short time before the conference. Stephen was a regular attendee of the conference. He was an exceptionally talented lawyer, highly principled and independently minded. Stephen advised Camden Council on the King’s Cross development that has dominated my working life. I recall presenting a paper to the conference alongside Stephen in 2008. He delivered a brilliant, memorable analysis of “The Path to the Community Infrastructure Levy—Past, Present, Future”. His death is a very sad loss.

The title of the 2021 conference was “Building Back Better?” and that question-mark turned out to be a masterstroke. The conference took place in the lead up to CPO26 in Glasgow, amidst fervent press speculation that the Government may be rowing back from some of the reforms trailed in the Planning White Paper “Planning for the Future”, August 2020: in particular, the identification of areas or zones for growth, renewal and protection, and the setting of binding housing targets. Then, on the very eve of the conference, a cabinet reshuffle meant that Robert Jenrick departed “the Ministry”,¹ to be replaced by Michael Gove.

One unfortunate consequence of the reshuffle was that Joanna Averley, the Chief Planner, was no longer able to join the conference as a headline speaker. The committee were very grateful, therefore, to Steve Quartermain CBE, Not the Chief Planner,² who agreed to step in at short notice and undertook a planning reform Q&A with Trudi Elliott CBE.

Steve Quartermain started by addressing the question: “Where are we with planning reform?”. He cited proposals in the White Paper that he commended as “good stuff”, not least digital planning, speeding up plan-making and having someone responsible for place-making in each local area. Other aspects of the White Paper were too green around the edges to really judge. In the absence of further detail, Steve concluded that the jury was still out on whether we are heading for a better planning system, or just a different one.

Steve then identified a number of “asks”: things he would like to see in the White Paper response: changes to the NPPF, including the soundness test for local plans, such that plans should be assumed to be sound, unless someone proved otherwise; putting design at the heart of the thinking and focusing the new Office for Place on helping local planning authorities achieve this; being clearer about the purpose

¹ Previously the Ministry of Housing, Communities and Local Government. Now the Department for Levelling Up, Housing and Communities.

² Previously the Chief Planner, for 12 years, up until 2020.

of planning in relation to climate change; looking again at the methodology for housing numbers; taking a step back and re-introducing some “bigger than local”, i.e. regional thinking, even if that does not mean regional plans; the revisiting of some permitted development rights; and thinking about 20 minute neighbourhoods and how we achieve a more nuanced, diverse environment.

This led neatly into the presentation by Nicholas Boys-Smith, Director of Create Streets, on “Turning everywhere into somewhere: how can we plan for a happier and healthier future?” Nicholas addressed four topics:

- **Good design is not subjective:**
What are the discoverable links between place with health, happiness, prosperity and sustainability and why do they matter?
- **Planning better:**
What are the consequences for how we plan new places and the stewardship of existing places?
- **Making it visual:**
What role can design codes play in creating better places? What makes for good and bad design codes?
- **Deep green:**
Why and how older places are part of the path to net zero.

The link between our heritage in older places and carbon net zero led us nimbly into the broader topic of climate change. Valerie Fogleman examined the role of climate change in planning law. She summarised the UK position on climate change before charting progress on reducing greenhouse gas emissions. She then looked at climate change litigation, focusing on landmark cases against governments around the world, to put the UK position in context. Valerie highlighted the lack of a written constitution in the UK as a key reason why the courts have upheld the UK Government’s position and concluded by posing a question, ahead of COP26: will the UK Government revise planning law to include legally binding requirements to mitigate and adapt to, climate change?

Sarah Carey and Ruth Keating both picked up the baton on climate change and the environment. Sarah presented a portrait of the Enfield Local Plan, between sustainable development and the climate change emergency; and highlighted implications for policy making and planning practice.

Sarah explained how climate change has been considered, weighed up and incorporated into the preparation and content of the new Local Plan. She opened with a reflection of the challenging expectation on planning to solve both the housing crisis and the climate emergency, before moving on to provide a potted history of policy and practice. She then outlined current challenges and practices before ending with personal reflections on planning as a tool to tackle climate change and some recommendations for how it could be improved.

Ruth Keating presented a paper on the Environment Bill 2019–2021, its implications and impact. The Bill has endured a long and protracted passage through Parliament. It is a wide-ranging piece of legislation and at the time of writing contains 145 clauses and 21 Schedules. Ruth focused on the key areas that will impact planners and flagged some of the other key, broader environmental developments in the Bill. Her paper sets out the background to the Bill (the aim of which is to be “the first generation to leave the environment in a better state than that in which we inherited it”) and highlights and examines the following areas of reform: the new office for environmental protection, environmental principles, environmental target provisions, conservation covenants, biodiversity net gain and air quality.

Melissa Murphy had the task of delivering a key component of any joint planning law conference: the legal update. Melissa presented her paper entitled “Business as usual”. She reviewed this year’s prominent and important case law in relation to plan-making and decision-taking, in that order. As a developer myself, I paid particularly close attention to her analysis of two significant cases concerning the interpretation of planning permissions and in particular *Hillside Parks Ltd v Snowdonia National Parks Authority*.³ This case has attracted a lot of attention and comment from planners, solicitors and barristers and the Conference noted an application to the Supreme Court for permission to bring an appeal. Melissa’s comprehensive analysis of this and other cases will be an important reference for everyone in the year ahead.

As ever, our delegates submitted excellent questions, this year via the Hopin platform and we enjoyed three excellent Q&A sessions, skilfully chaired by Trudi Elliott, Duncan Field and Rupert Warren QC.

Feedback on the conference has been mostly very positive. Of course, regular attendees of the physical conference, actually in Oxford, missed the drinks receptions, the black tie dinners and after dinner speeches. There was a distinct lack of gossip this year. And no disco dancing.

Our thanks to all our wonderful speakers and sound bite contributors. Thanks also to Turley and Landmark Chambers for their design skills and broadcast venue respectively; and to Sweet & Maxwell, our publishers, for continuing to support our conference. We hope to enjoy once again their champagne reception on the lawn of New College, when we return to Oxford next year, for our 50th anniversary. To mark reaching 50 not out, we are making a subtle but important change to the format. The 50th Joint Planning Law Conference will commence on Thursday 15 September 2022 and run through to Saturday 17 September 2022. We very much hope to see you there. In Real Life (and maybe in the Red Room).

³ *Hillside Parks Ltd v Snowdonia National Parks Authority* [2020] EWCA Civ 1440; [2021] J.P.L. 698.