

# Foreword

## Paul Brown QC

When settling on the theme for this, the 47th Joint Planning Law Conference, I doubt that any of the Committee could have anticipated the extent to which by September 2019, there would be a need for someone to shine a light to show the way ahead for planning. Three years on from the referendum on leaving the EU, this year's conference took place in the week following the enactment of legislation to prevent a "no-deal Brexit", and barely 10 days before the Supreme Court's historic judgment on the prorogation of Parliament. It is difficult to think of a post-War period when the political landscape has been more uncertain. However, at a time when a 16 year-old Swedish schoolgirl was shaming the world into greater action on climate change, national governments and local authorities were declaring a state of climate emergency, and an out-going Prime Minister had committed the UK to delivering a zero-carbon economy by 2050, one might have been forgiven for thinking that (for all its importance) the increasingly acrimonious debate over Brexit, and the uncertainty to which it gave rise, were simply distracting attention from even more serious issues.

Against this backdrop, Roger Madelin CBE, Joint Head of Canada Water Development, opened the conference on Friday evening with a typically thought-provoking personal reflection on the ways in which the planning system can and should do things better. Unlike so many of the frequently heard voices (from both sides of the political fence) telling us that the planning system is broken, Roger spoke with the authority of someone who has spent years at the coal face of development, and whose track-record proves that it is possible to deliver ground-breaking, inspirational schemes.

The questions Roger raised set the scene perfectly for the first two papers on Saturday morning, which opened with Professor Sir Malcom Grant Kt CBE on "Healthy Planning". Combining an unparalleled knowledge of the planning system with his experience as a former Chairman of NHS England, Malcolm set out the case for greater integration of health concerns in the way we plan our cities and urban areas, so that planning for health is not simply a reactive process of providing doctors' surgeries and hospitals, but seeks to address the environmental causes of physical and mental illness at source.

If the logic of that argument was compelling, the question "so how do we do it" led seamlessly into Louise Wyman's paper, "Big and beautiful: landscape-led planning at scale". Tracing the history of landscape architecture through figures like Joseph Paxton and 19th and 20th century designers such as Gertrude Jekyll and Dan Kiley, to contemporary practitioners and Ecological Urbanists such as Kate Orff, Louise drew on her own experience of working for Homes England to explain how and why Landscape Architects are becoming the driving force behind the creation of new places such as Garden Towns across England, and Garden Suburbs across France, Germany and the Netherlands, and the ways in which this can create healthier, more beautiful places to live.

From here, the Conference delved into the discrete (but highly relevant) topic of sunlight and daylight. As anyone working in major urban areas will know, this has become increasingly important for planners seeking to balance environmental standards against the pressure for growth. The complexities of this topic were examined by a combination of three speakers. Annabel Graham-Paul opened with an outline of the legal framework, including the recent decisions in *Rainbird v Tower Hamlets LBC* (March 2018) and *Guerry v Hammersmith and Fulham LBC* (November 2018). This was followed by Gordon Ingram's lucid explanation of the key concepts used in assessing impacts on sunlight and daylight as set out in the BRE Guidelines, and other techniques which can be employed to arrive at a balanced decision. Key messages to emerge from this were first, the need to properly understand the BRE Guidance, and second, the need to understand its limitations. Finally, Jason Hawthorne demonstrated some of the latest technology for assessing impacts and illustrating them in an easily accessible fashion.

The afternoon session then turned to ways to make these ideas work. There has barely been an Oxford Conference since the abolition of Regional Spatial Strategies which has managed to get away from the question “how, in the absence of Regional Planning Bodies, does one co-ordinate strategic planning?”, and the growth in recent years in non-statutory concepts such as the Northern Powerhouse and the CamMKOx Arc has come as no surprise to many. Martin Tugwell (Programme Director for England's Economic Heartland)’s paper on “Rediscovering the Art of Strategic Planning” put flesh on the bones of how these ideas come about and are put into practice, emphasising the importance of clear leadership, a common set of objectives, and a willingness to look beyond artificially imposed geographical areas when setting the boundaries of co-operation.

With the prospect of Brexit looming ever closer (and having studiously avoided the subject in 2018), the Conference returned to the topic for the final session on Saturday, with David Elvin QC’s exposition of the likely shape of environmental law in a post-Brexit world. Starting with an overview of current trends in the influence of environmental law on planning, including developments in EIA and habitats, David’s paper rounded off the formal sessions for the day with an analysis of the effect of Brexit and Post-Brexit environmental regulation (which at present seeks to ensure that existing legislation based on EU law will continue in force, with no reduction in standards environmental protection) before turning to the creation and anticipated powers of the Office for Environmental Protection, and the extent to which the OEP will be a suitable watchdog.

Traditionally, the Saturday night after dinner speaker’s brief has been to entertain the room. Dr Louise Brooke Smith OBE fulfilled that role admirably, but at the same time imparted a serious message, based on her own battle for recognition and equality, about the need for greater diversity. The standing ovation Louise received was almost certainly as much a tribute to her, as it was to her speech.

Regular attendees at Oxford will know that Sunday morning is traditionally—and deliberately—reserved for the papers that are, on a day-to-day basis, of greatest practical use: how else would we persuade people to leave the Red Room before 3am the night before? This year, Daniel Farrand gave a long-overdue update on developments in enforcement, highlighting in particular the growth in the use of the Proceeds of Crime Act to ensure that, criminal sanctions notwithstanding, breaching planning control does not become profitable. Estelle Dehon wound up the conference with an excellent summary of the past year’s case law, with particular emphasis on the cases on climate change which have become her trademark. Her supporting paper will be an important reference for everyone in the year ahead.

As with past years, the 2019 Conference was greatly enriched by questions and contributions from the floor, and by the presence of representatives from MHCLG, PINS, and their equivalents in Scotland, Northern Ireland and Wales. As a Committee, we have worked hard to make the JPLC more accessible (and more inviting) to those at the beginning of their career, and we have been delighted to see our scholarship programme starting to pay dividends, with a significant increase in the number of younger professionals attending. We would welcome any suggestions on ways to improve this further.