

Foreword

Kelvin MacDonald

It would be easy to pretend that the organising committee of the 38th Joint Planning Law Conference foresaw the extent and speed of the changes to the planning system when they perspicaciously titled the 2010 event ‘Planning in 2010—Where to Now Guv!’.

Few, however, could have foreseen that in the seven months between choosing that title and the Conference itself, a whole level of the planning system would have been effectively swept away, that the nation would be facing the deepest spending cuts since the War, and that a whole new concept of localism and the Big Society would be driving everything that we do. That, however, was the context within which the delegates met in Oxford in mid-September.

The theme of uncertainty but of trying to map the best ways ahead implicit in the title was only too apparent in the Conference papers contained in this issue of the *Journal of Planning and Environment Law Occasional Papers*. The speakers certainly rose to the occasion and gave the Conference a series of presentations that were based on experience and expertise, and were thoughtful and thought-provoking. Would that some of the pronouncements from other quarters on planning shared these characteristics.

Baroness Kay Andrews OBE, the Chair of English Heritage, set a high standard when she gave the after-dinner speech on the opening night. She gave a delegates an insight into the life of a Minister, drawing on her recent experience as Parliamentary Under Secretary for Communities and Local Government. Clearly speaking from the heart, she looked at some of the thinking of the current Government in relation to aspects of planning that the previous Government had put in place.

The ways in which major infrastructure projects are dealt with in England and Wales is a clear exemplar of a new approach to decision making in this country. In his paper, Sir Michael Pitt, Chair of the Infrastructure Planning Commission, outlines not only the progress made in the IPC’s year of existence, but also the changes to its future operation proposed by the Government. With two proposals already submitted, and an estimate that once the system is fully underway 100 proposals will be being dealt with at any time, the IPC has had to move fast to establish not only its way of working but also its reputation as an independent and trustworthy organisation.

Richard Coleman’s paper, *Development in Historic Contexts: Establishing Objective Criteria for Visual Assessments*, demonstrates a freshness of thinking on the long-lived tensions between respecting the setting of historic buildings and maintaining the character of historic areas, and pressures for change and the need to encourage high quality modern design—the historic environment of the future. His presentation, with its helpful graphics, demonstrated the power of well-chosen examples to illustrate a multi-faceted argument. Richard Coleman’s passion for the subject and his willingness to challenge some hidebound perceptions are only too obvious from his paper.

The *Penfold Review of Non-Planning Planning Consents* had reported in July 2010, and Adrian Penfold’s paper provides a clear exposition of the plethora of consents needed before development can go ahead—with 86 consents required in some types of development. This has been a neglected area of concern in the past, and the Penfold Review is welcome not only in bringing it to the fore, but in doing so in such a balanced and reasoned way. It may seem as if some Kafkaesque nightmare is at play in the world of parallel consenting. However, the Review does recognise the necessity both for a range of types of consents and for some elements of this complex consenting regime—but also points to the need for far greater integration of it. The Government response to the Review was published a month after the Conference.

This year for the first time the Conference put the Oxford Union to the use for which it was intended—as a debating chamber. Duncan Field’s notes of the debate show both the wit and humour and the underlying seriousness devoted to the subject of public involvement in the planning process. The debate on the motion

‘this house believes that successful development planning means limiting public participation’ well exposed the tensions inherent in the Government’s localism agenda, and the twin dangers that nationally beneficially development could be stymied by those who have greater access to power or the media, or that those who currently feel disenfranchised will thus fail to protect precious environments or encourage the development of socially necessary schemes. The arguments were so well put, with a winning combination of cogency and wit, by David Elvin QC for the motion and Richard Buxton against, very ably supported by Andrew Warner and Leonora Rozee. A good debate requires an excellent chair and Gregory Jones fulfilled this role brilliantly.

I have rarely heard such a level of laughter and appreciation in a Joint Planning Law Conference as that which was afforded to Chris Shepley, who spoke after dinner about the mythical, but in some ways ever so real, County of Grotton. A former Chief Planning Inspector, Chris Shepley is one of the three joint authors of *Grotton Revisited: Planning in Crisis?* (published by Routledge), a wonderfully funny but insightful book that exposes the reality behind the planning system. From revelations about fetishistic planning officers taking case files home with them for dubious pleasures, to comparisons between the truly inspirational rhetoric of politicians in the past talking about the real value of planning with what passes for political discourse today, Chris demonstrated how the most subtle form of comment and analysis may sometimes be best done through the use of humour.

The need to find new routes applies to all sectors of development and planning and, by its nature, a period of coalition government must be a good time to look at new ways of partnering and sharing responsibilities. This theme is excellently taken up by Sarah Whitney in her enigmatically named paper on $D \times V \times F > R?$ New models for development in an age of austerity. This calls for new ways of working by all those involved in development, but is far more than simply a plea for change. To revert to taxi jargon, it provides ‘the knowledge’ through the use of examples from practice to show the benefits, as well as the challenges, of changing the ways in which the public and private sectors can work together. We all need to engage in the thinking that lies behind this paper.

It is now a tradition that the final paper at the Joint Planning law Conference is a Legal Update. This difficult task has been tackled by speakers in the past in a variety of ways. Paul Brown QC brought a winning combination of scholarship, based on sheer hard work, an enviable breadth of knowledge and perception, and an ability to present complex issues in engaging way. The paper in this Journal demonstrates yet again how the practice of every aspect of planning and development in the English system relies on an understanding of the accretion of interpretation and judgment that the legal system provides. The breadth of the paper is impressive, ranging as it does from enforcement to continuing issues of probity—both areas set to be even more in the spotlight under the new Government.

As Sarah Whitney’s paper states, we are in an age of austerity. Events subsequent to the Conference itself, notably the announcement of the Comprehensive Spending Review in October 2010, have shown only too clearly that planning and development are entering a period of a nature that has not been previously experienced. The Joint Planning Law Conference provides an unparalleled forum in which new ideas can be tested, the most up-to-date practice discussed, and some of the enduring fundamental issues about the nature of planning and development reinforced.

It is a measure of the knowledge and wisdom of the Conference’s Organising Committee that the 2010 conference produced such high-level speakers and papers at a time when such knowledge and reflection is so needed. It was a real privilege to chair the series of meetings that shaped and discussed the content of this year’s event, sitting in awe, as I did, of the expertise of those that make up the Committee. The fact that it was such a fulfilling and, ultimately, enjoyable experience bears witness to the generosity of the Committee members.

But good Committees do not always make good conferences. The Joint Conference, and I personally, owe a debt of gratitude to Lucinda Howe of Quadrilect and to Steven Durno of the Law Society, whose wisdom, patience and organisational ability are sometimes tested but never found wanting.

