

# Without a plan(ner)

*Peter Kershaw voices his growing concern at the lack of involvement of planning law expertise in the long-term strategies of universities and local authorities*



*Peter Kershaw is a planning consultant with Paris Smith LLP*

**W**ith increased competition from national and international competitors, and rising student numbers, universities are competing against each other for the best students who are increasingly savvy about where they choose to work, live and play. Universities around the globe are therefore necessarily investing in higher quality, multi-faceted and mixed-use environments to try and achieve their long-term strategic missions. In doing so, their focus is very much on creating enhanced student experiences and trying to enhance the university's role within the local community by creating linkages with local businesses and local authorities.

For universities and local authorities, ensuring that experienced planning and planning law consultants are involved in their property projects from the outset should therefore be an essential first step. This is because effective planning advice from the very outset of new projects helps universities and local authorities to seize and maximise finite development and land disposal opportunities. Coupled with real estate investments and initiatives increasingly becoming paramount to the long-term success of organisations' core strategic missions, it is consequently a growing concern that so many university and local authority property teams seek planning advice so late in the process.

### **Identifying long-term real estate opportunities**

With the ominous and dangerous veil of economic uncertainty inflicted by the prospect of protracted Brexit negotiations impacting on short to

medium-term decision-making at universities and local authorities, they are increasingly now having to assess longer-term real estate opportunities both within and outside their current operational boundaries in an attempt to try and achieve their strategic missions and enhance the environment for their students and residents.

Unlike other forms of development, the pursuit of profit and income is often rarely the sole or overriding aim of universities or local authorities when deliberating over new property projects. This is because there are a multitude of other important considerations at play, including trying to gain or maintain long-term control over land around their campuses and key operational assets in order to be able to effectively influence the way those areas develop in the future. In built-up areas, universities and local authorities therefore need to be very proactive and alert to future nearby development opportunities and risks in order to put them in a position to guarantee future growth opportunities for their organisations.

There is a real danger that by not involving planning and planning law consultants early on in their long-term plans for their current and future estates, universities and local authorities place at risk their plans to continue to improve and grow their campus offering for future students and residents. Planning consultants can, for example, robustly assist in objecting to inappropriate nearby proposed developments, as well as assist with progressing universities' and local authorities' own planning proposals.

**'There has never been a more important time for university, local authority and private sector land owners to be fully "engaged" with the planning system and planning case law.'**

**Effective and early stakeholder and public engagement is key to successful planning outcomes**

Complicating most university and local authority property projects is the complex decision-making processes involved within these types of organisations. These typically involve multiple stakeholders and groups, both internally and externally, in order to gain approval. In this respect, experienced planning consultants can also advise universities and local authorities on stakeholder engagement, which now increasingly holds the key to successful planning and placemaking outcomes because of the continued rise of neighbourhood planning in the current Parliament.

The importance of proper engagement with local communities cannot be understated because the government believes that it is not only right that developers show willingness to engage early on with local residents, but that it also makes perfect sense for developers to take the opportunity to identify potential problems early on and to work towards creating successful and innovative schemes that offer great value to communities and developers alike.

It is therefore going to be more important than ever for university and local authority property teams to try and engage in the local plan and neighbourhood plan-making processes in any areas where they are likely to look to develop in the future. They will need to genuinely engage with communities to demonstrate their positive credentials at an early stage, in order to more easily justify that their long-term involvement in the development of a community will be beneficial and genuine.

If public consultation is exercised correctly, universities and local authorities can help to reduce objections to their planning proposals later down the line and, through fostering good relations with residents and communities early on, can avoid there being mistrust and a lack of transparency between themselves and the local community. As one local resident previously whispered to me:

This piece of land in the village is like Grandma's wedding ring – we will only support it being handed over to whom we feel we can genuinely entrust it to.

Through demonstrating that they have a genuine interest in developing a local area in a positive, thoughtful and engaging manner, universities and local authorities will also be well positioned in future planning appeals to illustrate to the Planning Inspectorate that they have actively engaged with local or neighbourhood plan-making processes for that area. This is likely to be a strong argument to make in areas where there

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has been a particularly low community turnout in the plan-making process.

The government has shifted planning powers to regions and neighbourhoods in the interests of localism and in order to help give developers and communities the chance to engage with one another in the interests of positive planning and to try and help solve the country's housing crisis. The government therefore expects communities and developers to play their part in participating and engaging with each other in the new system. It expects developers to talk to communities rather than submitting applications out of the blue, and it expects communities to listen carefully to what developers have proposed instead of automatically opposing developments as their default position without having fully looked into the proposals and how they might benefit the local community.

There is now a very clear and present danger to universities' and local authorities' long-term strategic missions if they are not constructively engaged in the new planning system from a very early stage to advocate the benefits of their schemes.

**University and local authority property teams are panning for golden opportunities to collaborate with public sector landowners or each other**

The strengthening of the government's narrative towards public sector land sales – at a time of housing under-supply and widespread economic uncertainty affecting construction prior to formal

Brexit negotiations – indicates that this could also be a watershed moment of opportunity for universities, local authorities and public sector land owners who aim to help the government in regenerating underused areas of public estate, in order to transform local areas, stimulate economic growth and improve service delivery.

Naturally these opportunities are finite and for universities and local

authorities it is important that they talk to public sector land owners and each other to maximise any potential development opportunities. It is important that they:

- consider collaborating with each other on joint schemes to potentially bring forward larger combined sites, which would help maximise their planning opportunities and those of the local community – this could unlock planning opportunities over and above what they could each achieve on their own; and
- consider the merits of procuring planning and planning law consultants at an early stage in their discussions to ensure that the potential for sites to be formally allocated and considered in emerging local authority local plan processes are not missed (and in order to try and optimise planning consents).

**The importance of procuring planning and planning law experts early in property projects**

If the land which interested parties own or are looking to acquire or sell for future development is located in areas where local authorities are still finalising their local plans, it is imperative that parties act swiftly to start participating in local authorities' local plan making and 'call for sites' consultations before their deadlines expire.

Interested parties should ensure that they consider making formal

representations to the council through their procured planning consultants in order to make strong and persuasive arguments justifying why they believe a particular area or parcel of land should be designated in the local plan for a specific desired future use.

Their procured planning team, as well as being on board early to make policy representations to local authorities in relation to emerging local plans, will also then be primed and ready to act on future instructions to help guide projects forward through all stages of the planning system: from pre-application discussions with councils and architects through to submission of planning applications; engagement with local communities and politicians; s106 and CIL negotiations; and planning committee representations.

If their procured planning consultants also have local and national political experience in their ranks, they will also be well placed to assist with any long-term political monitoring requirements. Universities and local authority property teams should be giving careful consideration to what they can do now to better position themselves to take full advantage of land development and disposal opportunities, and also to ensure that they have the capacity and essential skillsets within their teams to promote their sites for development and to try and achieve optimum planning consents. This could necessarily involve consideration of collaboration with private sector planning consultants and law firms and/or setting up additional partner panels.

Utilising private sector skillsets is likely to be increasingly important for universities to maximise the development and disposal potential of their surplus sites and to unblock planning constraints – and also for local authority development companies and property investment portfolios (who often need to have separation between their asset management divisions and their planning departments).

**Further planning threats and opportunities are on the horizon for universities and local authorities**

With the outcome of the recent housing white paper expected before the end

of 2017 (where further planning reforms are anticipated), and local authority and mayoral elections and formal Brexit negotiations in the near future, there has never been a more important time for university, local authority and private sector land owners to be fully ‘engaged’ with the planning system and planning case law (and fully ‘engaging’ with each other, local communities and private sector planning and legal experts).

Of the potential planning changes that the government is currently contemplating, I believe that one of the most important suggestions is found in its *Summary of responses to the technical consultation on implementation of planning changes, consultation on upward extensions and Rural Planning Review Call for Evidence*, which at para 1.13 stated that:

We are bringing forward a package of measures in the Housing White Paper to address concerns about local authority resourcing, including a 20% increase in planning application fees by summer 2017. Alongside these measures, we will continue to engage with areas interested in reforming their planning service and committing to performance improvements, in return for greater fee flexibility.

(see [www.legalease.co.uk/housing-paper](http://www.legalease.co.uk/housing-paper)). This is interesting for me because the government has heard cross-sector concerns for some time now that local authority planning departments may not have sufficient resources to provide an effective planning service and that developers would be prepared to pay higher planning application fees if it meant a better service and performance.

One way some local authorities have reformed their planning services is to enable greater assistance and partnership working with the private sector. This is because local authority planning teams are increasingly at the coalface of planning at a time of regular political change and budgetary pressure.

Through carefully procuring experienced planning consultants who are immersed in the sector and who have a range of skillsets including local authority experience

and legal, planning and political expertise, there is beginning to be a noteworthy shift in the way that local authorities are managing their workloads in the interests of enhancing their guardianship of the cityscape and rural and coastal landscapes.

Councils are particularly seeing opportunities within their constraints by exploring the benefits of supplementing their existing team’s pool of permanent staff, by employing alongside them a carefully procured planning consultancy to work on their behalf on a long-term basis whenever extra backup for their planning staff is required.

Local authorities are beginning to see this option as a smarter way of working in comparison to recruiting new staff at peak times, or trying to refill positions when permanent staff move on or retire, as they are able to flexibly utilise different planning consultants’ skillsets as and when the demands of the planning workload require it.

They also build very effective long-term working relationships with their chosen consultancy, who deeply understands from experience how both local authorities and developers work and who provides the council with a degree of long-term stability and local expertise and knowledge (which can often be lost in traditional management models where planning officer turnover and absences are routinely unavoidable).

This changing landscape has also been widely emphasised in academia, for example in *The Collaborating Planner? Practitioners in the neoliberal age* by Ben Clifford and Mark Tewdwr-Jones (2014), Policy Press, and in *A managerial state: Power, politics and ideology in the remaking of social welfare* by Clarke J and Newman J (1997), Sage Productions.

**Maximising real estate assets and the organisation’s long-term strategic mission**

Ultimately universities and local authorities who procure the long-term services of carefully selected planning and planning law consultants can be assured that their experts would be offering a sharp focus in times of high pressure – helping to maximise their organisation’s long-term strategic missions and real estate assets. ■