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Bernstock, Penny (2020) Evaluating the contribution of planning gain to an inclusive housing legacy: a case study of London 2012. *Planning Perspectives*, 35 (6). pp. 927-953. ISSN 0266-5433

<http://dx.doi.org/10.1080/02665433.2019.1639210>

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Planning Perspectives



Journal:	<i>Planning Perspectives</i>
Manuscript	RPPE-2018-0036
Manuscript	Original Article
Keywords:	Affordable Housing, planning gain, mega-events, urban

Evaluating the contribution of planning gain to an inclusive housing legacy: A case study of London 2012

Abstract: When London won the bid to host the Olympic and Paralympic games in 2005 it heralded a new moment in games making where it was claimed that the hosting of a mega event would be galvanized to create an inclusive legacy. Affordable Housing was a key dimension of this legacy. This article seeks to interrogate four key policy assumptions that underpinned the strategy for delivering affordable housing associated with the Growth Dependent Planning Paradigm. Firstly, that rising land values would create the potential to capture value for public good. Secondly, that S106 agreements (Planning gain) introduced in the 1990 Town and Country Planning Act would capture this value. Thirdly, that state and market would work in a symbiotic relationship reconciling private profit with public good and fourthly, that governance of planning should be overseen by an appointed rather than elected body. This article interrogates these assumptions through a longitudinal analysis of planning applications between 2000 and 2017. It argues that this policy framework has been relatively ineffective in leveraging public good. The findings are relevant for those interested in planning gain, value capture, urban regeneration and the potential for mega-events to achieve broader social objectives.

Introduction

There is a substantial literature on legacies/impact of hosting the Olympic and Paralympic games, in the case of London Much of this literature has focused on the run up to the games, games-time itself and its immediate impact on a wide range of issues. In contrast, there is a relative dearth of literature focusing on outcomes over a longer period.¹ A key reason for London's successful bid was the extent of deprivation in East London and this deprivation manifested itself in some of the highest levels of housing need in the country, consequently, housing was a key legacy commitment. London's housing legacy has three dimensions; the conversion of the Athletes Village into permanent housing following the games, the construction of five new neighbourhoods on the Park and the acceleration of housing development as a result of the revalorization of the area. This article focusses on the latter through a longitudinal analysis of planning applications between 2000 and 2017.

Analysis is divided into two phases. The first phase covers the period 2000-2012 and focusses on Stratford High Street, a road that runs parallel to the Olympic park. This area was chosen because the Olympic Park was sealed off to development for much of this period and its proximity to the Park enabled an assessment of the impact on housing development in the area. The second phase focusses on planning applications for the whole of the legacy area (see Figure 1) for the period 2012-2017 and coincides with the establishment of the London Legacy Development Corporation(LLDC) whose remit was to oversee planning for the area.

It is demonstrated that hosting a mega event has resulted in significant private developer interest in building new housing in the area, however, planning gain has been relatively

¹ Cohen and Watt, 'Olympic City: A Hollow Legacy'

ineffective in leveraging genuinely affordable housing for low-income communities. Moreover, a mixture of rising land values and cuts to housing grants have crowded out Registered Social Landlords who have traditionally played an important role in providing housing for low income households in the area. The findings highlight the inadequacies of the Growth Dependent Planning Paradigm that assumes that the state can lever 'trickle down' benefits for local communities and that rising/optimum land values are desirable. In the case of London 2012, public sector investment has 'trickled up' benefitting private developers and those able to access exclusive housing on the park. This has accelerated gentrification rather than inclusive growth. It is important then that lessons are learnt from what is both one of the UK's largest ever regeneration projects and a host city that committed itself to an inclusive housing legacy.

We begin by elaborating on the methodology utilized to undertake this research. We then examine the literature related to Olympic housing legacies generally and London in particular. We explore the emergence of the Growth Dependent Planning Paradigm and planning gain as a vehicle for delivering affordable housing and then provide an overview of the governance of planning in the Legacy Area across these two phases. The research findings are organized into three sections. In the first section, we analyse planning applications for the period 2000-2012. In the second section, we analyse planning applications for the period 2012-2017. In the third and final section we evaluate the advantages and disadvantages of utilizing a Mayoral Development Corporation to oversee planning and we explore some key challenges with regard to the delivery of affordable housing including viability issues, the delivery of on or off-site affordable housing and the emerging need for affordable workspace, that is increasingly competing with affordable housing for subsidy.

Methodology

This article draws on research undertaken over a seventeen year period and is divided into two distinct phases. The first phase includes an analysis of planning applications of fifty units or more approved between 2000 and 2012 for schemes along Stratford High Street. Applications were scrutinized to understand the proportion and type of affordable housing on these schemes, type of developer i.e. private or registered social landlord and whether affordable housing was to be delivered on or off site. There are two types of affordable housing. These include social rent, (that across the study period has been renamed affordable rent and most recently London Affordable Rent) and intermediate housing that includes a mix of discounted market rent properties and shared ownership housing whose cost is linked to market values. Analysis for this first phase was further divided into three periods. The first in the five years prior to London winning the bid, the second in the period 2005 – 2009 subsequent to London winning the bid and the third period 2009 to 2012 coinciding with the global property crash and cuts to housing grant.

The second phase of the research explored all planning applications (with ten units or more) approved by the London Legacy Development Corporation since it was established in 2012 through to August 2017 across the whole legacy area. Analysis of data drew on the same criteria utilized in the first phase of the study. In this second phase, qualitative interviews were undertaken with two officers working within the LLDC and four members of the Planning

Committee, including three Local Authority and one Independent board member. Access to interviewees was gained via the LLDC Planning Committee Clerk who forwarded an invitation to participate in the research to all Committee members. It was the intention to interview more Independent board members but just one agreed to be interviewed. An analysis of official documents was undertaken including Minutes of the LLDC Planning Committee and Local Plans. These minutes did provide some insight into key debates that had arisen, however, they lacked detail and therefore to interrogate this issue further an ethnographic observation of the LLDC Planning Committee was undertaken across a six month period from January to August 2017. An ethnographic observation of the Planning committee was undertaken across a six month period enabling a greater insight into how decisions were made; the contribution that each member made to decisions; key concerns of the committee and its members; the relationship between planning officers and committee members and the extent to which local authorities were able to determine/influence decision making in their respective areas, and to more generally understand why there was a gap between formal requirements and actual outcomes. This observation was illuminating in highlighting key tensions and priorities of the Planning Committee and has provided a richer analysis than the first phase of research.

Olympic Housing Legacies

There is a substantial literature exploring housing legacies in the various host cities, and this literature tends to highlight the direct and indirect displacement impacts of hosting the games.² Both London and Vancouver differentiated themselves from previous bids in terms of their commitment to an affordable housing legacy. There has been a detailed analysis of the affordable housing legacy in London including its impact on displacement, and in Vancouver on the impacts on young people. Each highlights the disconnect between original policy intentions and outcomes and the dilution of original commitments to affordable housing.³ It has been argued that since London hosted the games two distinctive spatial realities in Stratford (increasingly referred to as Old and New Stratford) have emerged, with populations in 'Old Stratford' continuing to be over-represented on a range of housing need and deprivation indicators and a more affluent population moving into the revalorised areas of 'New Stratford'. The housing market in Stratford has also emerged as a distinctive sub-sector of the housing market since London hosted the games characterized by above average house and rental price increases. Conversely the housing crisis in the legacy boroughs has accelerated since 2012 and this has been particularly marked in Newham (Stratford is located within the London Borough of Newham) where there has been a substantial increase in the number of households living in temporary accommodation, the highest number of households of any borough rehoused out of London and more than 27,000 households on the household waiting list, increasing to 66,000 across the four legacy boroughs.⁴ The paradox of new developments and the limited benefits for local communities have triggered what has been described as an Olympic Counter Legacy

² See, for example, COHRE, "Fairplay for Housing rights"; Shin, "Life in the shadow of mega events"; Suzuki et. al," *The right to Adequate Housing*".

³ Bernstock, "Olympic Housing". Kennelly, "Olympic Exclusions".

⁴ Watt and Bernstock 'Housing for whom'".

with single mothers organizing under the banner of Focus E15 to highlight these contradictions and argue for a more inclusive legacy.⁵

There has been scholarly work that explores the way in which housing allocations at East Village(former Athletes Village) marked a trend from residualisation to a more self- reliant individualization⁶ It has also been demonstrated that a substantial proportion of what is described as affordable housing at East Village and across the park, and in particular intermediate affordable housing such as shared ownership and discounted market rent are not genuinely affordable, as its cost is linked to market values and as market values have increased this gap has become more pronounced and this is explored in more detail below. ⁷

There has been scholarly work that has explored the LLDC's formulation of its first local plan in 2015 and the inherent tensions in the LLDC's role as landowner hence the need to maximise returns on the sale of land and its remit to deliver a meaningful affordable housing legacy resulting in a lower requirement for affordable housing in the first local plan despite the extensive housing need. ⁸ Moreover, analysis of formal master-planning documents across the period 2008-2018 has observed some very specific challenges in delivering a project across a long period set against changing political priorities and its impact on policymaking. For example, it was noted that an emphasis on stitching the existing communities to the new area as a symbol of inclusion reflected in early planning documents was replaced by an emphasis on developing a more London focused approach. Some notable continuities across this period were observed including a focus on developing a significant proportion of market housing to attract new populations despite the high level of need amongst existing populations and the preparation of the site for market-led futures.⁹

The Growth Dependent Planning Paradigm

The election of a Conservative government in 1979 signaled a break from the Post War consensual approach to planning to a more conflictual/free market approach. This model was applied in a number of areas in the UK including London Docklands (an area close to the Olympic Park) where it was most vigorously contested and has come to symbolize the key contradictions of a market approach, where physical transformation and significant private investment failed to trickle down to local communities. This approach was accompanied by a shift from government to a highly conflictual governance model that shifted power from local to central government and appointed a board that reinforced a property/market-led approach to regeneration that marginalized the power of local authorities and the interests of local communities. Towards the end of the 1980s there was a return to a more consensual approach to regeneration built around public-private partnerships and planning gain formally introduced in the 1990 Town and Country Planning Act through the introduction of Section 106

⁵ Gillespie, Hardy, Watt, "Austerity urbanism and Olympic Counter-Legacies"

⁶ Watt, "Gendering the right to housing in the city".

⁷ Watt and Bernstock 'ibid.

⁸ Sagoe, "Planning"

⁹ Davis, "Futurescapes of Urban Regeneration."

agreements enabling planners to negotiate contributions to affordable housing and other community benefits on a scheme by scheme basis.¹⁰

The concept of the 'Growth Dependent Planning Paradigm' has been developed by Yvonne Rydin to capture a new phase in the application of markets to urban regeneration as a mechanism for reconciling the market with social/community needs. There is some continuity with the free market approach, including the belief that market led development was the most appropriate vehicle for regeneration and that regeneration should be driven by a governance rather than government model. A key distinction from the Thatcherite approach was the introduction of greater regulation with the intention of enabling the state to lever social/community benefits through planning gain, a modification of the governance system to ensure greater representativeness and a focus on partnership working.

There are a number of assumptions then that underlay the Growth Dependent Planning Paradigm i.e. the market is the most appropriate vehicle for regeneration, the planning system enables the capture of value for communities, land values should be maximized and the state should intervene with public subsidy in areas of low market demand.¹¹ The Olympic Park is cited by Rydin as an example of the application of this paradigm where it was assumed that public investment would provide leverage for private investment. More than £9 billion of public investment has been spent in a relatively small area, (see Figure 1) particularly when considering that the total regeneration budget for England in 2010/2011 was £9.1 billion. Whilst the London games marked itself out by its commitment to inclusive regeneration, the model applied was a market led/neo-liberal approach based on the assumption that a mega-event could be utilized to simultaneously stimulate market-led regeneration and inclusive growth.¹² Under this model, formal planning documents are indicative as it is the market that drives activity and the role of Planners to ensure compliance with the plan. There is an underlying tension in that the private sector wants to maximise profit and the planners have to maximise benefit whilst ensuring development is not hindered.¹³ It was assumed then that the application of the Growth Dependent Planning Paradigm would simultaneously increase/maximise land values, attract private investment and result in trickle-down benefits for local communities.¹⁴ For Rydin this model is highly problematic as an increase in land values may simply crowd out social uses, accelerate displacement and gentrification whilst planning gain may be relatively ineffective in leveraging trickle-down benefits.

¹⁰ Brownill, O Hara, 'From Planning to Opportunism'

¹¹ For a full discussion see Rydin 'The future of planning'

¹² Davis, *ibid.*

¹³ Rydin, *ibid.*

¹⁴ Page 64, Crisp et al, "*Regeneration and Poverty*".

Planning gain as a vehicle for capturing value/community benefits

There is a substantial literature exploring the role of the planning system in capturing/levering value. One key area that has been identified is the difficulty in extracting value despite the application of a range of strategies such as the 1967 betterment levy¹⁵; the 1973 Development Gains Tax and the 1976 Development Land Tax. Each approach has experienced problems because of difficulties in measuring uplift and more generally the challenge of balancing public good with private interests.¹⁵ In the UK the mechanism that continues to be used to extract value/community benefit was introduced under section 106 of the 1990 Town and Country Planning Act and provided a mechanism for securing/negotiating contributions towards affordable housing and infrastructure needs arising from developments and under 'New Labour' become an important source of affordable housing provision.¹⁶ Research undertaken in 2006 found that more than half of affordable housing developed in England was through planning gain agreements.¹⁷ Approaches to the use of S106 vary reflecting political priorities, market conditions and housing need in England. There is a national planning Policy framework that sets out key principles sometimes underpinned by government guidance. Local authorities produce local plans that conform to this guidance and set out principles and policies that underpin development in their area. These plans include requirements/aspirations with regard the overall percentage and type of affordable housing on new developments.

Requirements are indicative and intended to guide the system. A range of studies have highlighted a gap between stated policy interventions and outcomes. For example, in 2004 the First London Plan was produced by the relatively newly established Greater London Authority and informed by a left-wing Mayor, Ken Livingstone. The plan sets out a requirement that 50% of all housing on new developments should be affordable and 70% of this should be social/affordable rent in response to the established need for this type of housing. A review of planning agreements in the first four years after the requirement was introduced indicated that an average of 34% of all new housing was affordable and 58% was social/affordable rent.¹⁸ Similarly, analysis of 82 planning gain agreements in the Thames Gateway identified similar disparities.¹⁹

More recent studies have explored the impact of the downturn in the property market on the capacity to lever affordable housing through the planning system. The studies have identified a downward trend in the number of units being delivered through S106, a renegotiation of affordable housing contributions downwards and a relaxation of requirements to secure development.²⁰ There has also been a review and relaxation of planning requirements at a national level. For example, the National Planning Policy framework introduced in 2012 reduced the threshold at which obligations were required. It also amended the definition of affordable housing resulting in the severing of its link with income.

¹⁵ See, for example, Crosby et al, "*Fit for planning*".

¹⁶ See, for example, Mayor of London, "The London Plan", (2004), (2017), Kate Barker, "Housing Policy an Overview".

¹⁷ Monk et al, "Delivering affordable housing through Section 106".

¹⁸ Bowie, "Politics, Planning, and Homes in a World City".

¹⁹ Bernstock, "Homing in on housing" Monk et al, *ibid*.

²⁰ See, for example, Crosby et al, *ibid*. Grayston, "*Slipping through the loophole*".

The Growth and Infrastructure Act 2013 enabled developers to appeal against planning obligations, where it could be argued that it would impact on viability. More significantly it replaced a system of negotiations over contributions to a range of social benefits such as education and transport and replaced this with a non-negotiable flat rate Community Infrastructure levy resulting in affordable housing remaining the key area for negotiation on a scheme by scheme basis.²¹ Research published in 2015 confirmed that whilst planning gain continued to play an important role in levering affordable housing, there were huge variations between areas based on both market conditions and policy. Proportions of housing delivered in six case study areas varied from 2% to 87% of all new housing and particular challenges arose from the lack of housing grant following the introduction of austerity programmes. They argued that the issue of viability and claims that affordable housing obligations rendered private development unviable had emerged as a significant challenge. This resulted in a downward trend in affordable housing contributions with land availability, strategic leadership, and finance identified as key factors in shaping outcomes.²² A cross-national comparison of planning obligations explored the potential benefits of a tariff and suggested that pre-determined planning obligations did not necessarily result in higher levels of affordable housing and where tariffs were too high it presented the risk that they may mitigate against development.²³

The governance of Planning on the Olympic Park

Governance arrangements for legacy and planning more generally have been modified several times since 2005 and are complex and have included a range of agencies and three London Mayors with different approaches to this issue. The Olympic Development Authority (ODA) established in 2006 acted as the planning authority for Olympic related planning applications on what is now the Queen Elizabeth Olympic Park (QEOP) including East Village. In 2009 an Olympic Park Legacy Company (OPLC) was established to focus on post games use and legacy. The London Thames Gateway Development Corporation (LTGDC) was established in 2004 with part of its remit to oversee the regeneration of the Lower Lea Valley (an area of 1450 hectares that straddles the River Lea in East London from Leyton to Canary Wharf and includes the Olympic Park). There are four local authorities whose regions straddle the Olympic Park. Previously described as host boroughs and now referred to as legacy boroughs i.e. Newham, Tower Hamlets, Hackney, and Waltham Forest. Each has their own local plans and ambitions for the area and were represented on the various bodies outlined above.

In 2012 following a review of quangos, the ODA, OPLC, and LTGDC were closed and their responsibilities and (where appropriate) land transferred to London's first Mayoral Development Corporation. The Mayoral Development Corporation was established under the provisions of the Localism Act 2011 to oversee transformation post games. The agency inherited the planning powers of both the ODA and the LTGDC and land owned by both LTGDC and OPLC. The Mayoral Development Corporation is accountable to the Mayor's office (Greater

²¹ Brownil et al, "Rethinking Planning Obligations".

²² Brownil et al, *ibid.*

²³ Crosby et al, *ibid.*

London Authority) and works closely with the Legacy boroughs who are represented on both the London Legacy Development Corporation Board(LLDC) and Planning committee.²⁴

The LLDC board and committee embody a governance model that incorporates a mix of appointed and elected members. According to their website:

“Our Board comprises a team of industry leaders with skills ranging from sports, social enterprise and community engagement to business, marketing, and finance.”²⁵

The respective Mayors of Newham, Tower Hamlets and Hackney are represented on the Board; along with the Leader of the Waltham Forest. The corporation has identified four priorities for its work; Promoting Convergence and Community Participation; Championing Equalities and Inclusion; Ensuring High-Quality Design and Ensuring Environmental Sustainability. They produce an annual risk review with both housing generally and affordable housing red flagged as potential reputational and financial risks.²⁶ The Planning Decisions Committee is appointed by the Board and includes three board members, four independent Members, and five local authority members. Whilst this structure does include local authority representation, they have a limited capacity to shape policy in their respective areas as their voice is limited to one or two votes on a committee of twelve. The London Legacy Development Corporation Planning committee membership has been modified since this research was undertaken. Between January and August 2017, when the observation of the planning committee was undertaken, membership of the Planning Committee comprised three board members including a chartered surveyor and Chief Executive of the property division of the Kirsch group; Chief Executive of the London Marathon and Chairman of Sport England and a third described as one of the UK’s leading social entrepreneurs with strong local connections. All three members are paid £28,000 for their role as board member and have served on the LLDC Planning Committee since it was established in 2012.²⁷

There are four independent board members. One described as an innovative and leading architect who has served on the committee since its establishment in 2012 and three newly appointed independent members who had at the time of the research recently joined the committee including Head of Garden Towns and Villages, HCA; Executive Director of Planning at CBRE (Commercial Real Estate Services) Head of Strategic Land at the Housing and Communities Agency and Chief Executive of a planning and Development Consultancy. The London Borough of Tower Hamlets; Waltham Forest and Hackney have one local authority member on the Committee and the London Borough of Newham has two. The Planning Committee is male dominated with nine men (75%) and three women (25%) and includes only one Black and Minority Ethnic (8%) member. A review of the gender and ethnic breakdown of membership of each Legacy borough planning committee in June 2017 indicated that men were over-

²⁴ Bernstock, *ibid.*

²⁵ London Legacy Development Corporation Website, "Our Story, The Legacy Company".

²⁶ London Legacy Development Corporation, "Chief Executive's report to the Board".

²⁷ London Legacy Development Corporation, "*Our story*", *ibid.*

represented on all committees, however, there was greater representation of BME groups on three of four legacy borough committees.

The Greater London Authority (GLA) has had a significant impact on planning policy and as political control has passed from Labour to Conservative and back again this has impacted on Affordable housing plans and the use of planning gain. Ken Livingstone was London's first Mayor (2000-2008) and one of the key architects of the concept of the 'regeneration games'. He set out an ambitious strategy for high levels of affordable housing on the park (reflecting the 50% aspirational target reflected in the London Plan 2004), although in reality plans for realising this strategy were vague and dependent on planning gain. It is important to note that the London Borough of Newham's ambitions for Stratford at that time were for higher levels of market housing to re-balance what they perceived as an oversupply of social housing in Stratford and to stem the flow of middle class populations from the area under the banner 'Make Stratford a place where people want to live, work and play'. This meant that the Stratford City development adjacent to the park and incorporating East Village (the first phase of Legacy housing) required only 30% affordable housing (significantly below both Newham and London Plan requirements).

Formal plans for affordable housing on the Park have been modified a number of times. On winning the games it was assumed that in line with the then London Plan that there would be 50% affordable housing on new housing developments on the Park. In 2010 the Olympic Park Legacy Company produced an indicative Masterplan for 35-40% affordable housing. This was revised downwards with the publication of the Legacy Communities Scheme in 2012. The LCS again reduced levels of affordable housing and indicated that there would be a minimum of 28% and a maximum of 35% affordable housing would be built across the five new neighbourhoods. Under Boris Johnson's Leadership (2008-2016) there was a weakening commitment to affordable housing reflected in low numbers of affordable housing on the first neighbourhood (28%), cuts to affordable housing on two further neighbourhoods currently under construction, justified in part by the need to repay loans that had accumulated from hosting the games.²⁸ It has been argued that Boris Johnson and his team favoured an increase in private rented housing over affordable housing.²⁹

By contrast, the election of Sadiq Khan in 2016 has brought a renewed commitment to affordable housing and a review of plans for the park with the intention of maximizing affordable housing.³⁰ The Olympic Park and its limited legacy have come under scrutiny from the Mayor's office. According to the chairman of the LLDC:

"Khan's election meant it was now having to re-work its affordable housing plans for the site in east London."³¹

²⁸ Bernstock, "Olympic Housing", Watt and Bernstock, *ibid*.

²⁹ Sagoe, *ibid*.

³⁰ Mayor of London, "Homes for Londoners, Affordable housing and Viability".

³¹ Chairman of LLDC cited in "building online".

Managers at the Legacy Corporation were exploring ways to do this:

“For the sites that we have left we can get 50% affordable housing on there, we can accelerate delivery, but it costs money, several hundred million pounds, it means we don’t send money back to the treasury, or you have to give grants. There is no mystery we can build you more affordable homes and build them quicker if you come up with the money.”³²

Since Khan's election the level of affordable housing in the first neighbourhood have been reviewed with the intention of increasing the level of affordable housing from 28% to 35% using off-site monies, though this increase is likely to be intermediate rather than much needed social/London Affordable Rent. There has been a renewed commitment to affordable housing at a national level that has translated into increased housing budgets for London, with budgets up from £1.07 billion for the period 2015-2018 to £3.15 billion for the period 2018-2023. This increased investment provides an opportunity to revisit affordable housing in all neighbourhoods either planned or under construction.³³

In addition to formal legacy plans related to new neighbourhoods on the park, it was envisaged that hosting the games would accelerate regeneration more generally across the Lower Lea Valley and that up to 30,000 – 40,000 new homes would be built, much of which would be affordable.³⁴ There is now evidence of this accelerated regeneration. In 2014 it was confirmed that planning permission had been granted for 20,000 (predicted to increase to 24,000 by 2031) units within the LLDC boundary. This includes housing planned both in the new neighbourhoods on the park and within the legacy boundary.(See Figure One). In the Annual Monitoring Report 2018 it was confirmed that they were on track for 24,000 with 6,416 units completed to date and 15,346 approvals.³⁵ Therefore, we now turn to the role of planning within the LLDC area as a mechanism for leveraging affordable housing for local communities on these schemes with developers clearly benefitting from the investment/revalorization of the area.

As has already been noted, Sadiq Khan has demonstrated a renewed commitment to delivering high levels of affordable housing and has reintroduced funding for a new social rent product, London Affordable Rent. He has published revised Supplementary Planning Guidance on ‘Affordable Housing and Viability,’ signaling the importance of meeting affordable housing targets and ensuring greater consistency in its approach to viability issues across London. The Guidance indicates two routes through the planning system; introducing a ‘fast track’ route for schemes which include 35% or more affordable housing without grant subsidy and meet the tenure mix (in these instances there will be no requirement to provide viability information) and a ‘viability tested route’ for applications that do not meet the 35% threshold with a viability review built in to the process, the guidance also sets out an ambition to achieve 50% affordable

³² Interview Senior Manager One, London Legacy Development Corporation.

³³ Stephens et al, “UK Housing Review 2018”, p47.

³⁴ Coe, “It’s ludicrous to claim the Olympics will lead to evictions and poverty”.

³⁵ London Legacy Development Corporation, “Annual Monitoring Report”, (2014), (2018).

housing on public land. A key change in the guidance is the approach to the tenure balance of affordable housing. The GLA and the Legacy boroughs have traditionally sought a tenure split of 60:40 Social/Affordable Rent: Intermediate housing split with social/affordable rent prioritised because of the urgent need for this type of housing, with Tower Hamlets having a higher indicative requirement of 70:30. However, the new guidance advocates a more flexible system, stipulating that at least 30% should be (social or affordable rent increasingly described as London Affordable Rent) and 30% intermediate (including the London Living Rent and Shared ownership as the default intermediate tenures) with the remaining 40% determined by the Local Planning Authority. As will be demonstrated this is resulting in a trend away from much needed affordable/social rent housing towards higher levels of intermediate housing whose costs are at odds with local incomes and therefore 'affordable' in name only.³⁶ For example on one scheme on the park, there was a requirement that households should have an income of £73k to purchase a one bedroom Intermediate Unit, this is substantially higher than the median household income in Newham that at time of writing was £29k.³⁷

Further evidence of its lack of appropriateness in meeting need is revealed through an analysis of ethnicity at East Village(former Athletes Village in Newham. The London Borough of Newham is one of the most ethnically diverse populations of any local authority in England. The largest Ethnic group in Newham is Asian/Asian British (46.5%); followed by White (18.1%) and; Black/Black British (18.1%) and mixed/multiple ethnic groups (4 %). Black and Minority Ethnic Groups are more likely to be in housing need.³⁸ Triathlon has collected data on ethnicity that indicate that Black African (32%) and Black Caribbean (14%) households constitute the largest proportion of ethnic groups living in social rented housing followed by White British (11%) and White Other (7%). By contrast White British and White Other households constitute the largest ethnic group in categories defined as intermediate housing. For example, White British comprise (64%) of Shared owners and (46%) of Intermediate renters, whilst those categorised as White Other constitutes (12%) of Shared Owners and (28%) of intermediate renters. By contrast, Black Africans' constitute (2%) of Shared owners and (4%) of intermediate renters. Similarly, Black Caribbean's' constitute less than (1%) of Shared owners and (2%) of intermediate renters and Asian Pakistani households constitute (7%) of those social renting and less than 2% of Shared owners and intermediate renters. It is likely given the ethnic composition of income and poverty that similar patterns would be repeated elsewhere, illustrating the limited value of intermediate affordable housing.³⁹

Research Findings

Section One: A critical review of Planning Applications and affordable housing 2000 to 2012

We now turn to the research findings. As we have seen there are a number of agencies that have shaped decision making related to planning across the period 2000 – 2017. The London

³⁶ Mayor of London, *ibid.*

³⁷ Bernstock 'London Olympics has brought Regeneration at a price locals cannot afford'

³⁸ London Borough of Newham. 'Facts and Figures'

³⁹ Triathlon, 'Tenant Profiling, East Village'.

Borough of Newham had development control powers for the area between 2001 and 2004 and as has already been noted, favoured higher levels of market housing. The Greater London Authority who at the time of London winning the bid had just produced its first London Plan with an aspirational 50% affordable housing target including 70% social rent/30% intermediate and the London Thames Gateway Development Corporation whose formal policies were informed by the GLA and in a bid to incentivize development introduced discounted planning obligations. The Olympic Development Authority established in 2006 had development control powers for planning applications on the park and was later incorporated into the London Legacy Development Corporation established in 2012. For the period 2000 to 2012, we draw on existing research that has reviewed developer contributions to affordable housing on all planning applications approved during this period along Stratford High Street (adjacent to the Olympic Park) on schemes of 50 units or more.⁴⁰

There were fifteen schemes approved between 2000 and 2012 with planning consent for 4447 residential units and 65 extra care units. The proportion of affordable housing was low at 22% on-site affordable housing, although this increased to 24% when factoring in offsite affordable housing. For the purpose of analysis, the applications were divided into three periods 2000-2005 prior to London winning the bid; 2005 – 2009 in the immediate period after London won the bid and 2009 – 2012 in the period following the property crash and the introduction of a new funding model for affordable housing and cuts to grant funding. In the first period, three schemes (one led by a Registered Social Landlord and two by private developers) were granted planning permission for 484 units and this included 21% affordable housing. The majority of the affordable housing was intermediate (75%) with just 25% designated for Social rent. In the period following London winning the bid up until 2009, it was evident that developer interest had increased in the area with seven schemes approved. Three were led by private sector developers and four by Registered Social Landlords(RSL's). However, each tended to include a private or RSL partner, indicating that a partnership model was dominant in housing delivery at this time. There were 1837 properties approved during this period along with 65 extra care units. Affordable housing levels were significantly higher (38%) and included more housing for social rent (52%) though this was still below the 60:40 split recommended breakdown in official policy documents. This increase reflected an increasing recognition of the importance of utilizing planning gain to lever affordable housing articulated in both the Barker review 2004 and the Greater London Plan 2004, the availability of Grant Aid and an Olympic effect that had stimulated developer interest in the area. In the final period between 2009 and 2012, there was continuing developer interest along-with some marked discontinuities. Planning approval was granted for five schemes that included a total of 2126 units. All schemes were private sector led with no RSL involvement, signaling the end of a partnership approach. Three of the five schemes did not include any on-site housing for social/affordable rent, the fourth a very low level i.e. between 4 and 5.5% dependent on grant aid and the fifth 17% affordable housing designated as affordable rent (this product includes a discount on market rent and can be up to 80% of market rent). Two of the schemes were submitted initially in 2007 and then resubmitted resulting in a substantial reduction in planning obligations rationalised by viability

⁴⁰ Bernstock, *ibid.* pp139-167

following appeals to the Planning Inspectorate. There were four factors then that can account for this virtual collapse in affordable housing, including cuts to housing grant as part of a wider package of cuts in public sector spending, a lowering of requirements for affordable housing from Mayor Johnson, increasing concerns about viability and a desire to secure development in the context of a downturn in the property market.

It was clear then that across these periods there was a gradual increase in developer interest that can be accounted for by the rapid investment in the area/Olympic effect. These schemes highlight some key tensions with regard to the Growth Dependent Planning Paradigm. The area had benefitted from substantial infrastructure investment/revalorisation of land and whilst the private sector were keen to develop, they were unwilling/unable to make significant contributions to affordable housing development. Indeed grant aid had played a significant role in facilitating increased levels of affordable housing in the period 2005-2009, suggesting that planning gain is most effective when there is developer interest, additional government funding and more stringent planning requirements. This then provides a useful context for analyzing planning decisions in the area from 2012 onwards.

Section Two: The London Legacy Development Corporation and Planning Applications 2012-2017

In this section, we explore findings from phase two of the study that included an analysis of all planning applications of 10 or more units within the LLDC boundary, semi-structured interviews and an ethnographic study of the Planning Committee (please see Methodology section). A degree of anonymity has been applied with regard to interviewees, who will be referred to as Senior Manager One and Two (when referring to Managers interviewed within the LLDC) and Planning Committee Members 1-4 (when referring to members of the planning committee). Analysis was undertaken for a five year period from October 2012 when the LLDC held its first Planning committee through to July 2017.

Planning Policy within the LLDC boundary area is informed by the LLDC Local Plan, the London Plan and Statutory Planning Guidance issued by the Mayor. Policy SP2 in the Local Plan sets out an aspiration to deliver more than the London Plan target of 1471 units of which a minimum of 455 will be affordable. I.e. 35% per annum. Relevant borough policies are also taken into consideration. A breakdown of the type of tenure mix is described above. The community infrastructure Levy has been set at £60.00 per square metre for residential development after viability testing. This was lower than that set in the LLDC boroughs.⁴¹ Supplementary Planning Guidance related to Planning Obligations was adopted by the LLDC in November 2016 indicating a preference for on-site affordable housing and making clear off-site housing would only be approved in exceptional circumstances.⁴²

⁴¹ BNP Paribas "Community Infrastructure Levy Viability Study".

⁴² London Legacy Development Corporation, "Planning Obligations".

An analysis of planning applications 2012-2017

We begin then by analysing planning applications approved by the LLDC in its first five years i.e. October 2012 until July 2017. Appendix A provides a breakdown of planning applications approved since the LLDC held its first planning committee in October 2012 up until July 2017 and as we can see developer interest increasing overtime and was initially limited. For example in the first four months, there were no residential planning applications and in its' first year (October 2012 – September 2013) just one residential application was approved. This was an outline planning application for 1063 units at Chobham Farm (adjacent to East Village) with the first 173 units approved as part of a full planning application. The application was submitted by a Registered Social Landlord (RSL) and planning consent was granted for a minimum of 15% affordable housing based on a no grant scenario and up to 35% subject to viability. This demonstrated the impact of cuts to grant aid. The first phase included 22% affordable housing, including 54% affordable/social rent and 46% intermediate housing. However, subsequent phases of this development have included higher levels of affordable housing (see below).

In the following year, (October 2013 to September 2014), there was evidence of growing interest from developers with seven schemes approved with planning permission for 828 units (including 522 in outline). This period included the lowest levels of on-site affordable housing of any period and a substantial deviation from formal policies (i.e. 13% affordable housing) with off-site contributions totaling £4,437.66. Six of the seven schemes were private sector led and one led by an RSL and included a much higher level of affordable housing (62%). There were some specific features of these schemes that help to illuminate reasons for this deviation. One of these schemes was an application for a large student housing scheme accompanied by an off-site contribution of £2.1 million. Another scheme adjacent to Stratford Station was a tall tower which included 13% on-site affordable housing (all intermediate/shared ownership) and an off-site contribution of £2,337.66 justified by the lack of suitability of a tower for on-site affordable housing for rent because of high service charges and inappropriateness for much-needed family housing. In these instances, the London Borough of Newham's preferred option was for off-site contributions. Two further schemes included 17% and 21% affordable housing.

The largest scheme was an outline planning application for the Neptune Wharf site. This scheme has skewed contributions for this period downwards. The application was submitted by the Neptune Group and it was initially argued that it was not viable to provide any affordable housing on site. Following negotiations, this increased to 4%, with the developers offering other contributions such as affordable workspace and a site for a school. The scheme was in the London Borough of Tower Hamlets and they argued against the scheme based on low levels of affordable housing. Interestingly after planning consent was granted the Neptune Group disposed of the site to Peabody Housing (RSL) and Hill Housing (a Joint venture). Peabody was awarded grant funding by the GLA and is developing what they describe as a significant amount of affordable housing, including affordable rent. Therefore, levels of affordable housing may exceed those included in S106 agreements. In the following period (October 2014 to September 2015) four schemes were approved for a total of 800 units. In this period there was a higher level of affordable housing (32%) and no offsite affordable housing. The largest scheme was a further phase of the Chobham Farm development (initially approved in outline in the first

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period (see above). It included 37% on-site affordable housing and this skewed overall numbers upwards. The RSL who had initially developed this scheme had disposed of their interests to another RSL. This phase was being developed jointly by a Private Developer and an RSL and funding of higher levels of affordable housing were to be subsidized by the inclusion of private rental units on the same site. The remaining three schemes were led by Private Developers, with affordable housing ranging from 10 – 32%.

In the final two years, developer interest increased substantially. For the period (October 2015-September 2016) nine schemes were approved for a total of 900 units and 21% of this was affordable housing (two of these schemes were for reserved matters of previously approved schemes prior to the LLDC being established and therefore not counted here). All these schemes were private sector led. A review of the applications highlight the huge amount of negotiation that was taking place between planners and developers on a scheme by scheme basis to lever affordable housing. For example, on two of the schemes approved, developers initially offered 0% affordable housing, and this increased to 11% and 22% respectively.

An analysis of planning applications for the period (October 2016 to September 2017) indicated that the election of a new Mayor (Sadiq Khan) was influencing scheme by scheme negotiations. During this period 10 schemes were approved with planning permission for 2454 Units. Again, three of these schemes relate to reserved matters on schemes approved prior to the establishment of the LLDC and have not been counted. During this period 20% of the housing approved was affordable and in addition to this substantial contribution to off-site affordable housing were levered on two of these schemes totaling £32 million. All schemes submitted during this period were led by private developers.

Again, it was evident that there was considerable negotiation about increasing affordable housing on a scheme by scheme basis. We explore some of these negotiations in more detail below. We can see from Appendix A, Table one that 5163 units were approved across this period including 999 affordable units. An analysis of the affordable housing tenure split indicates that housing approved was broadly in line with the recommended 60:40 affordable housing tenure split in three of the five periods. However, there is a substantial deviation in the most recent period (2016/17) with the ratio reversing to 39:61. It is suggested that this is the result of Sadiq Khan's amended policy enabling increased flexibility with regards to the tenure mix of affordable housing that has resulted in higher levels of intermediate affordable housing, whose income requirements are substantially higher than local incomes. From the perspective of policymakers this housing enables them to claim increased numbers of affordable housing, from the perspective of developers it is an attractive proposition as it requires lower levels of subsidy, but for those in housing need on average incomes in the legacy boroughs it is not genuinely affordable and will not meet their housing needs.

Across this period then there is evidence of both a substantial and increased interest in developing new housing schemes within the legacy area. In the main, this interest is private sector-led confirming that the large scale public investment has levered significant private sector interest/investment. On the other hand, we can see that planning gain has been

relatively ineffective in meeting the housing requirements set out in the Plan of 35% affordable housing, and paradoxically when levels of affordable housing have increased this has been the result of an increase in intermediate housing whose cost is prohibitive to those on local incomes. Furthermore, RSL's who have traditionally played a significant role in delivering affordable housing have become much less active and are essentially being crowded out through a combination of rising land values, welfare reform and cuts to grant aid that has presented considerable challenges.

The Planning Committee in action

We now move on to analyse the role of the LLDC Planning Committee in levering affordable housing and shaping regeneration, drawing on observations at planning committees, interviews with members of the committee and an ethnographic observation of the Planning committee that have provided insight into how decisions were made; the contribution that each member made to decisions; key concerns of the committee and its members; the relationship between planning officers and committee members and the extent to which local authorities were able to determine/influence decision making in their respective areas and to more generally understand why there was a gap between formal requirements and actual outcomes. The committee was held in the LLDC's Board Room. The Head of Planning was always present and sat adjacent to the chair. Planning Officers would attend when a specific application they were working on was being considered and would give an overview of the application identifying key issues for consideration from a planning perspective. Members tended to sit in the same seat at each meeting and raise similar concerns. There was considerable public interest in the meetings with rarely a spare seat in the public viewing gallery. However, those in the viewing gallery tended to be part of an entourage associated with each planning application, rather than members of the public. As each planning application was considered the audience looked on almost as spectators watching a battle. Would they get their application through? Would developers have to make concessions? The culture of the committee was supportive of development but mindful of the need to maintain certain standards paying considerable attention to detail. Some committee members were vociferous about affordable housing, whilst others remained silent on this issue. From a policy perspective, it is interesting to observe the gap between the East London Communities backing the bid for its commitment to inclusive growth and the Planning Committee tasked with realising these aspirations. We now explore a number of themes.

Advantages and Disadvantages of utilising an MDC

In 2011 when plans for a Mayoral Development Corporation were proposed the host/legacy boroughs indicated a preference for taking back control of their respective areas.⁴³ Nevertheless, interviewees identified a range of benefits associated with having an MDC that included; a greater strategic focus; a more joined-up approach from the four local authorities; attention to detail; breadth of experience on the planning committee and ability to attract high calibre staff. For example:

⁴³ Bernstock, *ibid.*

“The whole point of having a development corporation is to take a broader view than a single borough view. Historically the boroughs have failed to tell a coherent story about the whole. It was on the edge of the boroughs (Lower Lea Valley) ...They have never worked together to see the value of the whole”⁴⁴

“I think having independent members on the planning committee is a very good idea... Politicians have a very narrow view of what should and shouldn't be allowed, I think it is sophisticated and reflects the multitude of elements that should inform planning.”⁴⁵

“In a local authority planning committee we either accept the recommendation or we throw it out, here if we are not comfortable with X, we might approve it and say do you think you could work on X....We have some really good colleagues, they are hot at their stuff and they know it inside out, they take no prisoners and they say what they think... You don't often get that with councillors, because they are not top-level architects. That is hugely different from what would go on if the LLDC area goes back into local planning authority...”⁴⁶

“They have made things happen quicker than they would have otherwise, and I am not knocking any of that. We drew down a large sum of money. They have a great deal of expertise they have brought in. So yes, in terms of making it happen. Some of the buildings are of a higher quality in terms of architecture, I want good design, but I also want homes for people to live in.”⁴⁷

Democratic deficit and the LLDC

On the other hand, one major disadvantage identified was that of democratic deficit. The shift from government to governance and the establishment of quasi-governmental organisations such as the LLDC raises some very real issues about 'democratic deficit'. This was clearly a concern of local members from the legacy boroughs. For example:

“We should have control of it again, elected representatives will always put our residents first. We are asking the Mayor of London to consider having a timetable to hand back planning powers to the relevant boroughs.”⁴⁸

“Having said that (identified a range of positive factors) there is a certain amount of democratic deficit that people like me are meant to balance out. There is an argument to give the local planning back to the boroughs and allow the development corporation to develop and to have to satisfy the local authority planning committees. There was a powerful argument for saying that the Olympic park should have its own

⁴⁴ Senior Manager One, London Legacy Development Corporation.

⁴⁵ Planning Committee Member one, London Legacy Development Corporation.

⁴⁶ Planning Committee Member Two, *ibid.*

⁴⁷ Planning Committee Member Three, *ibid.*

⁴⁸ *Ibid.*

planning authority, whether that logic should be carried over to the LLDC is something you could debate and does create conflicts of interest.”⁴⁹

On the other hand, a Senior Manager from the LLDC argued:

“The LLDC is different from previous development corporations because it belongs to the mayor of London, so the development control remains closer than if it had gone to central government... More democratic than the London Docklands Development Corporation. If the Independents kept outvoting people on everything you have the ability to remove them.”⁵⁰

Nevertheless, there were times both during this research and subsequently where applications were approved that had been voted against by the boroughs. The democratic deficit was evident at one committee meeting. In May 2017 a reserved matters application was submitted from Qatari Diar Delancey (QDD), who trade under the brand name Get Living London (GLL) for plot N06. Plot N06 is one of six undeveloped plots of land that was originally to have been developed at the Athletes Village. The original consent for this plot was for 422 residential units of market housing and this application indicated an intention to increase this by 102 units to 524 units.⁵¹

The Athletes Village was built at Stratford City, rather than on the Olympic Park and utilized the existing planning for Stratford City. As has already been noted this scheme included 30% affordable housing (significantly below London Plan requirements). The original plan was for the Athletes Village to include 4200 units that were to be developed by a private developer. Following a competitive tender, Lend Lease was awarded the contract. They encountered difficulties capitalising the project and the government intervened with any risks associated with the project becoming public rather than private ones. The number of units were cut from 4200 to 2818 leaving six plots of market housing undeveloped. In 2011, following another competitive tender, it was confirmed that QDD would purchase 1439 of the 2818 units, the freehold to the Athletes village and six further plots of land with planning consent for up to 2000 units for £557 million.⁵² The government failed to recoup the £1 billion cost even when factoring in the £268 million paid for the affordable housing sold to Triathlon and sold the village at a loss. Therefore, the developer had already benefited from a favourable arrangement and it would seem appropriate to lever further contributions where possible, particularly given that the Mayor had clearly articulated a vision for maximising affordable housing.

Discussion about this planning application focused on two issues. The first was a lack of light in the blocks, which the developer argued would be compensated by more communal areas and the second was whether additional units should result in an additional affordable housing

⁴⁹ Planning Committee member two, *ibid.*

⁵⁰ Senior Manager one, *ibid.*

⁵¹ London Legacy Development Corporation “Plot N06, East village”.

⁵² Bernstock, *ibid.* (2014)

contribution. It is the latter that is explored in more detail here. The case highlighted an interesting dilemma. The planning officer was asked by a member of the committee why they had not sought further affordable housing contributions. The planning officer explained that this was not necessary as, despite these additional units, it was still in line with the original planning consent. From the perspective of the planning officer then, whilst it was possible to pursue this issue, it was not necessary. On the other hand, it would clearly be important to those in housing need. Having observed the committee across a number of months it was clear that there were particular members who would consistently raise the issue of affordable housing. This tended to be legacy borough councillors and one of the board members. Interestingly this board member had a sport rather than housing or community development background and clearly felt he had a duty to maximise affordable housing contributions to meet legacy commitments. On this occasion, he appeared frustrated and commented:

“They have added 103 units, but not one additional affordable unit. We could ask for more. Our strategy was for 35% affordable housing we don’t get it.”⁵³

A Councillor from one of the legacy boroughs commented:

“We should be getting affordable housing, there is better design with the communal space, I am mindful to approve but I am very uncomfortable on affordable housing.”⁵⁴

At this point the applicant (GLL) made a short presentation exaggerating the public benefits and downplaying the prohibitive cost with rental costs of a two-bedroom property around £2000 in 2017.⁵⁵

“We were recently named development of the decade. The average age of our client is 28.NHS is the main employer. One-third of our residents had an East London Postcode.” (Other public-sector employers such as the Police were mentioned, and the implication is that this scheme is providing a public service)”.⁵⁶

Following the presentation, members of the committee return to the discussion, one member raised a concern about the ‘the lack of light’, whilst another stated that they ‘liked the development and supported the unconventional determinism.’

One of the Legacy Councillors from the borough in which the scheme is located raised two concerns:

“I am concerned about the quality of housing and the lack of affordable housing... There is more revenue. The lack of focus on quality means we are at risk of diluting the existing success of the high-quality schemes delivered so far.”⁵⁷

⁵³ Notes from LLDC Planning Committee, (May 2017)

⁵⁴ Notes from LLDC Planning Committee, Ibid

⁵⁵ Watt and Bernstock, *ibid.* p99.

⁵⁶ Notes from LLDC Planning Committee, Ibid.

⁵⁷ Ibid.

Whilst another Legacy Councillor noted that:

“They liked the community space but were concerned about the daylight and the affordable housing and reminded the committee that they had levered an offsite contribution in the case of another development, Cherry Park.⁵⁸

Then a member of the committee asked:

“Can we consider the affordable housing issue again? Why haven’t officers sought a contribution?”⁵⁹

The officer again referred to the original consent. The Chair (also a Board Member) commented that:

“The landlord has made an investment in the park. Not everyone would do that, and they have worked to ensure that we have what we want. On balance they wouldn’t want to build it if they thought they could not rent it. GLL is plugging an important gap in the housing market. They have current consent. (Clearly steering away from a review).”⁶⁰

The Board Member who had been the most vociferous advocate of affordable housing was clearly frustrated and keen to review it. The third Board member who had clearly been appointed to the Board because of his local connections commented:

“We are very impressed with what QDD are doing.” (Again indicating that given their contribution to the community this issue would not be reopened).⁶¹

The Members were then asked to vote. Four voted against (including the two legacy councillors representing the area in which the scheme was located). The Chair noted that it wasn’t ideal to have four voting against. Nevertheless, it was approved. This provides an excellent example of the democratic deficit arising from this ‘quasi-governmental’ governance structure and its failure to maximise public benefit through planning gain. More recently three of four local authority boroughs voted against a large planning application for Stratford Waterfront as it included only intermediate housing, and this again was approved, as it was supported by independent board members.⁶² There is scope for exploring the concept of ‘democratic deficit’ in relation to the constituency of the board. Membership of the Board tends to favour those from business/planning backgrounds. It is suggested that the committee would benefit from grassroots representation from the range of community groups that have emerged to advocate

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² London Legacy Development Corporation ‘Stratford Waterfront’

for local needs. There were no representations from the public or organized groups about levels of affordable housing and indeed relatively little engagement with the committee. However, the importance and potential power of community voice were evident at the Planning Committee in September 2017. A planning application was being considered to locate a cement factory in the area. This led to widespread community mobilisation with several different interest groups including local school children speaking against the proposal. These representations clearly impacted on decision making, and greater mobilisation to argue for higher levels of genuinely affordable housing may influence outcomes.⁶³

Viability issues

As has already been noted the issue of viability has been identified as a key and increasing challenge in a number of studies. These issues were clearly being played out in the LLDC area, with concerns about viability raised in most applications resulting in a considerable degree of frustration for members of the planning committee. There were several instances where developers agreed to make greater contributions to affordable housing despite the viability assessment not supporting this. It was also clear that revised guidance that promoted a two-track approach to planning was influencing decision making.⁶⁴

For example, in June 2017 the Planning Committee considered an application for a Co-living scheme, The Collective. The scheme was initially rejected based on concerns about the design and the affordable housing offer. It was agreed to negotiate a contribution to off-site affordable housing. This contribution increased four-fold from £500,000 to £2 million just four months later. It was claimed that the enhanced offer was based on the applicant taking a more optimistic view of the market such that rental growth would outstrip cost inflation and the planning officer explained that the (LLDC) balanced whether to secure money up front as compared to revisiting this later through a review. It was agreed that there would not be a later review.⁶⁵

The Planning committee member representing the borough in which the scheme was based was clearly disconcerted and asked sarcastically:

“Why such an uplift in viability...how did the affordable housing contribution go from £500,000 to £2 million?”⁶⁶

Similarly, in July 2017 another application was submitted with an initial offer of 26% affordable housing. Again this was increased to 35% on the agreement there would be no viability review, reflecting the impact of Sadiq Khan’s Statutory Planning Guidance offering a fast track for developers including 35% affordable housing and an important mechanism for bargaining:

⁶³ London Legacy Development Corporation, “Bow Goods Yard East”, 2017.

⁶⁴ Mayor of London, Ibid.

⁶⁵ London Legacy Development Corporation, “The Collective”, 2017.

⁶⁶ Discussion at London Legacy Development Planning Committee, June 2017.

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“I think we are getting more effective. It is becoming more of a priority, I think it is also values that are increasing for good or bad but, that does mean that we have evidence to say that we have values they have increased and therefore we can lever out more, and obviously as a mayoral body ourselves we are under new pressure from the new Mayor of London to deliver more.”⁶⁷

This view was supported by members of the committee:

“We were disappointed with levels of affordable housing, but they are now improving.”⁶⁸

As we have already seen, increased numbers of affordable housing were offset by a trend towards the delivery of higher levels of intermediate housing that require lower levels of subsidy. Moreover, whilst there was specific guidance regarding the rent levels of 'affordable'/'social rent' products there was less specificity or interrogation of intermediate products:

“We recently permitted a scheme and to get the headline numbers on affordable housing units they looked at different mechanisms and included London Living Rent... We will see how that goes because it is a new product, and no one knows how the social housing market will respond to that. I am not sure what any of this does in terms of delivering homes that are genuinely affordable.”⁶⁹

It is noteworthy that planning applications included detailed information about the cost of social/affordable rental units, but there was a lack of detail on intermediate housing and this issue of the genuine affordability of intermediate housing products was not raised during any of the meetings observed. Members of the committee raised concerns about the effectiveness of planning gain as a mechanism for delivering affordable housing, and their comments indicate a lack of understanding about the purpose of planning gain:

“Well as you are obviously aware the politicians of the whole of London are obsessed by affordable housing in a way that puts everything else in the shade. I don't think they take a very good or balanced view of planning applications... Thinking that a country's affordable housing has to be provided by a tax on developers that is not a set tax, but is an incredibly flexible, argumentative tax... Developers have fantastic lawyers and simply wriggle out of it....In the end, people buying the market flats are paying for affordable housing, no one else is.”⁷⁰

“We are in the position of taxing private developers and therefore the people that buy those properties to pay for affordable housing rather than taking it out of central

⁶⁷ Senior Manager Two, *ibid.*

⁶⁸ Planning Committee Member 4, *ibid.*

⁶⁹ Senior Manager two, *ibid.*

⁷⁰ Planning committee member 1, *ibid.*

budgets... it is bonkers because what that does is to drive up the price of housing. Someone comes along and suppose you have a policy of 35%, someone says I paid x. for the land, I can give you 30%, the viability assessment says that is okay. We don't see the viability assessment, so we must take someone's words for it. The next developer goes into a bidding war over a plot and the developers say they got away with 30%... There is a tendency in that whole process to drive down the affordable housing and drive up the price of land."⁷¹

Although research exploring this issue argued that in more than half of cases the costs fell to the landowner.⁷²

Reconciling on and off-site contributions for housing

In order for local communities to benefit from regeneration, it is important that they are spatially included and the provision of genuinely affordable housing in these new developments is crucial to this. Part of the negotiation with planners may include a discussion about whether to include on-site affordable housing or provide a contribution to off-site affordable housing elsewhere. The LLDC's Local Plan and the GLA's London plan both specify a preference for on-site affordable housing, recognising its contribution to creating mixed and inclusive communities. For example:

“Officers view that provision of affordable housing on-site would be preferable to off-site provision because it would provide for an inclusive community, but officers also recognise that the level of contribution can secure more affordable housing at less central sites which have a lower land value.”⁷³

In some instances off-site contributions were preferred:

“There was an agenda where Newham had a lot of affordable housing concentrated in and around Stratford and they wanted to make a balanced community by not having so much there...there were some historic agreements that talk about money rather than delivery on site. Newham's agenda was to build more family housing, they didn't necessarily want a lot of one and two-bed properties in Stratford High Street, and in towers, they would rather take the cash and invest in small sites programmes.”

Added to this were concerns that high rise apartment blocks had high service charges and were unsuitable for families. Increasingly planning authorities are confronted with reconciling the tension between achieving lower levels of affordable housing on-site or higher levels off-site at a time when housing waiting lists are growing. This tension was evident in the case of Cherry Park (part of the Stratford City Development). The scheme was initially submitted in July 2016. Developers sought planning permission to construct 1224 units for private rent. A viability study supported an offer of 10% on-site affordable housing or a contribution towards off-site housing.

⁷¹ Planning committee member 2, *ibid.*

⁷² Tony Crook, *ibid.*

⁷³ Para 10.36, London Legacy Development Corporation, “Cherry Park”, 2017.

The offsite contribution increased from £18.3 million to £21 million to £30 million in December 2016 and at this point was granted planning permission:

“We had a wonderful case the other day not a big piece of land on the corner of they are putting up some pretty tall blocks and if I remember the figure correctly. If you have on-site, you might get £15 million or off-site £30 million what kind of choice is that when you have thousands of people on housing waiting lists.”⁷⁴

These tensions could be more effectively reconciled if monies were used to maximise genuinely affordable housing elsewhere in the Park. There are discussions about using off-site monies to increase affordable housing provision in the first neighbourhood, however, current indications are that this increase will be in intermediate housing.

Affordable workspace

Affordable workspace has entered the planning lexicon at the London Legacy Development Corporation reflecting the impact of increases in land and rental values, with local businesses increasingly requiring subsidy if they are to remain in the area. This issue has emerged in Hackney Wick that had previously been attractive to creative and cultural industries because of its affordability and is now increasingly attractive to property developers with several schemes approved in this area. This has meant that the LLDC is increasingly requesting contributions for affordable workspace that reduce overall affordable housing contributions.

“There are always trade-offs, these trade-offs are difficult because we need affordable housing and we need other things, we do need business workspace we do need jobs if we don’t have jobs, it is no good to have all of the housing.”⁷⁵

“We sometimes want affordable workspace and one of the officers, the other night, put up a simple illustration, you can have more of this and less of that. You can’t have both. We don’t want Hackney or Hackney Wick to become a dormitory and for all sorts of reasons we don’t want that to happen.”⁷⁶

This tension was evident in the production of the Hackney Wick Masterplan submitted by the LLDC (both landowner and planner) and the London Borough of Hackney and approved at the planning committee in April 2017. The plan sets out the principles for an employment-led regeneration of the area including the retention of low cost creative industrial workspace in perpetuity with capped rent. The plan sets out an aspiration for 20% affordable housing up to 35%. An earlier draft of the plan had been rejected because it had included 0% affordable housing:

"I think the initial notion of the high percentage of affordable housing on public land that is the way to go, that is what public land should be for, you can't say to developers do it and then not do it yourself, that would be ridiculous and appalling and

⁷⁴ Planning Committee Member 2, *ibid.*.

⁷⁵ Senior Manager two, *ibid.*

⁷⁶ Planning Committee member 2, *ibid.*

what is slightly shocking is when Hackney and the LDDC did a study for a masterplan of Hackney Wick there initial offer was 0% affordable housing."⁷⁷

The issue serves as an excellent example of ways in which the Growth Dependent Planning Paradigm drives out lower value land uses crucial to the local economy and creates the need for more state intervention and ways in which the LLDC itself has advocated lower levels of affordable housing.

High-quality design

Whilst there was some acknowledgement that there was scope for greater progress on issues related to affordable housing, there was a very clear narrative about their success with regard to place-making and high-quality design and the need to ensure this was not compromised in a quest for higher levels of affordable housing. The success was explained in part by their ability to recruit high-quality staff and the range of skills from the Planning Committee:

"I think the officers are the highest quality you can get. They are attracted to it, because it is such a great place to work, so they can pick and choose the best in terms of officer quality... We spend much more time on issues such as quality."⁷⁸

"I think the quality of the architecture and buildings we are being offered is really high, I really believe that it is pretty much exemplary, it is damn good, we have managed to hold the line on Hackney Wick and Fish Island... We have gone for a joined-up piece of city which will be more like Shad Thames. That sort of architectural style, it is very good."⁷⁹

"We have a commitment to ensuring quality in terms of housing and development, we consider a range of factors ranging from whether there is a child play area, through to daylight, rotation. There is an emphasis on not just doing things quickly but doing things that are genuinely of quality, trying to make places."⁸⁰

This discussion and commitment to ensuring high quality were illustrated at a planning committee where a reserved matters application for Chobham Farm was being considered. A number of design issues were raised and these illuminated the attention to detail. The planning officer and developers outlined the key features of the application emphasising the high number of family units and high-quality public realm. A Member of the planning committee was clearly angry and raised concerns about the lack of light that would impact on one property and commented:

⁷⁷ Planning Committee member 1, *ibid.*

⁷⁸ Planning Committee member 2, *ibid.*

⁷⁹ Planning Committee member 1, *ibid.*

⁸⁰ Planning committee member 4, *ibid.*

"I am disappointed... We have one flat that people will have to live in that is substandard, they must look out of that window. The applicants must feel bullish to come back with things that we have flagged up."⁸¹

The chair, reluctant to defer the application, approved it but also made clear there was an expectation this would be addressed. Furthermore, the planning committee member who consistently raised issues related to affordable housing sought clarification on the specification and location of the affordable units and the type of views/outlook they would enjoy. He was assured that they would share communal space and equivalent space standards and it was clear that by raising these kinds of issues planning officers were given a clear steer on expectations.

Conclusion

This case study provides a longitudinal analysis of the role of planning gain as a vehicle for delivering affordable housing between 2000 and 2017 and serves as a cautionary tale for a range of policy assumptions associated with the Growth Dependent Planning Paradigm. It serves as a cautionary tale for a range of policy assumptions that underpinned London's strategy for realizing an inclusive legacy is clear that despite substantial public investment in this relatively small area, planning gain has served as a relatively weak instrument to capture value for disadvantaged communities. The period directly following London winning the bid to host the games generated the highest level of affordable housing facilitated by a mix of lower land values and grant funding. Since 2012 it has been less effective. Policy instruments such as the revised Strategic Planning Guidance, intended to increase affordable housing provision, have translated into higher levels of affordable housing, although on closer analysis much of this so called 'affordable housing' is intermediate and not genuinely affordable. It is also clear that the growth-dependent planning paradigm has resulted in rising land values that have crowded out RSL's and local businesses and created the need for more public investment. Private developers have benefitted from the uplift in land values as a result of state investment but developers' attempts to limit their contributions are unsurprising given they are accountable to their shareholders rather than to local communities. The governance model established to oversee planning has weakened accountability to local communities. It is important that the state continues to find ways of maximizing value for local communities through planning gain, whilst ensuring governance models are responsive to local need. If we are to regenerate

⁸¹ Discussion at London Legacy Development Committee Planning Committee, Chobham Farm, 2017.

the area for the entire benefit of everyone that lives then a return to a more direct role for government is required.

Bibliography

Barker, Kate. *Housing Policy: An overview*. London: Crown, 2004.

Bernstock, Penny. *Homing in on Housing* in Cohen, Phil. Rustin, Michael.(Ed.)
“*London’s Turning: the Making of Thames Gateway*”.Aldershot: Ashgate, 2008.

Bernstock, Penny. *Olympic Housing: A critical review of London 2012’s legacy*. Aldershot: Ashgate, 2014

Bernstock, Penny. *London Olympics has brought Regeneration but at a price Locals can’t afford*. Guardian St August, 2016.

BNP Paribas. *Community Infrastructure Levy Viability Study*”, Commissioned by London Legacy Development Corporation, (May 2013)

Bowie, Duncan. *Politics, Planning and Homes in a World City*. London: Routledge, 2010.

Brownill, Sue, Youngman, Cho, Keivani, Ramani, Nase, Iller, Downing, Lesley, Valler, Dave and Bernstock Penny. *Rethinking Planning Obligations, Balancing housing numbers and Affordability*, York: Joseph Rowntree Foundation, 2015

Brownill, Sue, O’Hara, Glen. From Planning to Opportunism? Re-examining the creation of the London Docklands Development Corporation in *Planning Perspectives*, October 2015, Vol 30, Issue 4, P537-550

Building Online *Sadiq Khan Attacks Johnson’s legacy* in *Building Online* downloaded at <https://www.bdonline.co.uk/news/sadiq-khan-attacks-johnsons-housing-legacy/5081710.article> 2016.

Centre on Housing Rights and Evictions(COHRE). *Fair play for Housing rights: mega events, Olympic Games and Housing Rights*, Geneva, Geneva International Academic Network, (2007)

Crook, Tony. Chapter Four in ,Crook Tony, Henneberry John, Whitehead C. ed. *Planning Gain, Providing Infrastructure and Affordable housing*, London: John Wiley, 2015.

Crosby, Neil, McAlister, Pat, Wyatt Peter. *Fit for planning: an evaluation of the application of development viability appraisal models in the UK planning system* in *Environment and planning b: urban analytics and city science*, vol 40, no 1(2013) pp3-22.

Planning Perspectives

Davis, Juliet. Futurescapes of urban regeneration: ten years of design for the unfolding urban legacy of London's Olympic Games, 2008–2018, in *Planning Perspectives*, November 2018, DOI: 10.1080/02665433.2018.1541757

Gillespie, Tom, Hardy, Kate, Watt, Paul. Austerity Urbanism and Olympic counter-legacies: Gendering, defending and expanding the urban commons in East London in *Environment and Planning D: Society and Space*, Vol 36, no 5(2018) pp812-830

Grayston, Rose. *Slipping through the loophole, how viability assessments are reducing housing supply in England*, London: Shelter(2017)

Humphry, D, From Residualisation to Individualisation: Social Tenants Experiences in Post Olympic East Village in *Housing, Theory and Society*, 2019(Forthcoming)

Kennelly, Jaqueline. *Olympic Exclusions, Youth, Poverty and Legacy*, New York: Routledge, 2016.

London Borough of Newham. *Newham Facts and Figures based on midyear 2017 GLA 2017 projections*.(2017).

London Legacy Development Corporation, *Annual Monitoring Report, 2013*.

London Legacy Development Corporation, *Local plan*, adopted May 2015, (2015).

London Legacy Development Corporation *Planning Obligations*, Adopted November 2016, (2016).

London Legacy Development Corporation, <http://www.queenelizabetholympicpark.co.uk/our-story/the-legacy-corporation/the-board>, Downloaded September 1st 2017.

London Legacy Development Corporation, London Legacy Development Corporation Agenda for the 46th meeting of the Planning Decisions Committee, 20th December, *Item 5, Cherry Park*, 2016.

London Legacy Development Corporation, London Legacy Development Corporation agenda for the 50th meeting of the Planning Decisions Committee, Tuesday 25th April, *Item 8, Hackney Wick Masterplan*,2017

London Legacy Development Corporation, *London Legacy Development Corporation, Agenda for the 51st meeting of the Planning Decisions Committee, Tuesday 25th May, item 8, Plot NO6, East Village*, 2017.

Planning Perspectives

London Legacy Development Corporation, *London Legacy Development Corporation, Agenda for the 52nd meeting of the Planning Decisions Committee, Tuesday 27th June, Item 5, the collective, 2017*. London Legacy Development Corporation, Annual Monitoring Report, 2018.

London Legacy Development Corporation, *London Legacy Development Corporation Board Meeting Tuesday 28th February, Item 13, Annual Risk Review, 2018*.

London Legacy Development Corporation, Agenda for the 71st meeting of the London Legacy Development Corporation, 30th April, Item 5, Stratford Waterfront. 2019.

Mark Stephens, John Perry, Steve Wilcox and Peter Williams. 2018 UK Housing Review, Coventry, Chartered Institute of Housing.

Mayor of London, *London Plan*, Greater London Authority: London, (2004).

Mayor of London, *London Plan*, Greater London Authority: London, (2017).

Mayor of London, *Homes for Londoners: Affordable Housing and Viability*, Supplementary Planning Guidance, Greater London Authority, London,(2017).

Monk, Sarah, Crook, Tony, Lister, Diane, Lovatt, Roland, Luanaigh, Ni, Rowley, Steven, Whitehead, Christine. *Delivering affordable housing through Section 106: Outputs and outcomes*, York: Joseph Rowntree Foundation, 2006.

Rowley, Sarah, Crook Tony. Chapter six in Crook Tony, Henneberry, John, Whitehead C. *Planning Gain, Providing Infrastructure and Affordable housing*, London: John Wiley, 2015.

Rydin, Yvonne. *The future of Planning: Beyond Growth Led Planning*, UCL Policy Briefing, and London: UCL(2013)

Sagoe, C. Technologies of Mobilising Consensus: The Politics of producing affordable housing plans for the London Legacy Development Corporation's Planning Boundary in *Planning Theory and Practice*, Vol 19, No 3, pp327-344

Shin, Bang, Hyun. *Life in the shadow of mega events: Beijing Summer Olympiad and its impact on housing* in *Journal of Asian Public Policy* vol, 2, no 2,(2009) pp 122-141;

Suzuki, Naofumi,, Ogawa, Tetsuo, Indaba Nanako.) The right to Adequate Housing; evictions of the homeless and elderly caused by the 2020 Summer Olympics in Tokyo in *Journal of Leisure Studies*, Vol 37, Issue 1,(2017) pp 89-96.

Spurr, Heather. *Khans, Living Rent set to become home ownership product* In. *Guardian*, 7 Th September, (2017).

Planning Perspectives

Triathlon Homes. *Tenant Profiling East Village*, Unpublished PowerPoint presentation.(2017).

Watt and Bernstock, Legacy for whom? Housing in Post- Olympic East London. In

Olympics City: A Hollow Legacy? Edited by Phil Cohen and Paul Watt. London: Palgrave Macmillan, 2017.

Watt, Paul. "Gendering the right to housing in the city: Homeless female lone parents in post-Olympics, austerity East London."(2017) *Cities*, online

<https://doi.org/10.1016/j.cities.2017.04.005>

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Annual period Application approved	Number of schemes approved that include residential	Number of Units	Number of Market Units	Percentage and number of affordable units	Ratio Affordable: Intermediate
October 2012-September 2013	1	Up to 1063 units(outline) 173	137	22% (37)	20 affordable rent: 17 shared Ownership 54:46
October 2013 – September 2014	7	828(Includes 522 as part of outline application	759	13%(96)	58 Affordable rent: 38 shared ownership 60:40 Off Site contributions £4,437,66
October 2014-September 2015	5	800	543	32% (257)*	163 affordable rent: 94 Shared ownership 63:37
October - 2015 September 2016	9	908	735	21%(193)	119 affordable rent: 74 Intermediate 62:38
October 2016-July 2017	10	2454	2038	20%(416)	162 affordable rent: 254 Intermediate 39:61 £32 million off site affordable housing contribution
	32	5163	4212	19% (999)	522 affordable rent: 10% of overall new supply 477(9% of overall supply) intermediate 52:48

- Skewed by two schemes with higher levels of affordable housing where RSL's were either a partner or leader. On the three other schemes the total number of units approved was 284 and 55(19%) affordable units.
- Excludes Hackney Wick Masterplan as it serves as a guide to development