Using Planning to Facilitate Low Energy Buildings

A pragmatic route to delivering an efficient planning system in Wales

Introduction

This section looks at the interactions between the method of regulating construction through the UK Planning system, the interaction of this with an Integrated Design approach to energy reduction, and the impacts of this on the resultant buildings. The paper goes on to highlight potential amendments to the method to enable better, low energy buildings through adapting the planning system to better accommodate Integrated Design.

Background

The planning system in Wales (and the rest of the UK) is officially defined as a "Plan Led" system: Local Authorities are charged to plan for the needs of their populations via a Local (or Unitary) Development Plan (LDP). This LDP, together with relevant legislative requirements determined by Welsh (or in some instances, UK) government, is then the measure against which applications for "Planning Approval" are determined. Individual proposals for development sites are put forward by those wishing to build (or convert, etc.), and the applicant provides details of their proposed development as required by the Local Authority. The Local Authority reviews the information provided, and once this is deemed sufficient, the proposed development is reviewed by a democratic body in the form of a Planning Committee of elected council members. For smaller proposals, the democratic process is largely a formality through the use of "delegated powers". If the proposed development is deemed reasonable, a Planning Consent will be given. This will invariably have detailed conditions that the development will be required to satisfy by predetermined points in its construction or occupation.

The current planning system makes allowances for two types of proposed development – "Detailed" and "Outline". A Detailed proposal submits a significant volume of information about the proposed development's appearance, sustainability, intended functions, traffic impacts, ecological and other consequences anticipated by the proposal's construction. An Outline proposal submits less information, but this type of application has become rare for anything except 'masterplanning' of large sites, driven by Local Authorities asking for considerable volumes of detailed information under an "Outline" application that becomes similar to what is needed for a "Detailed" application.

The planning system has operated broadly as set out above for many years. Whilst not without merit, the system does suffer from a common public perception that building developers always get their way, whilst at the same time building developers struggle against the very real risks that their development proposals will be refused Planning Approva, rendering all their work (and investment) to that point abortive. Both these points are expanded in the following sub-sections.

Public Planning Perceptions

The public perception that the developer always wins appears to stem from a lack of the understanding of the planning processes by the general public, primarily around the importance of the Local Development Plan, and secondarily around the engagement that Local Authorities undertake when detailed Planning Applications are made on specific sites. The combination of these can mean that the first time the local public become aware about an application in their locale is when their Local Authority writes to advise of a detailed planning application adjacent to them (as they are obliged to do).

Should the local public not want the development to proceed, they may then orchestrate letters of opposition or even organised campaigns against the development. More commonly that not, however, such objections do not succeed in preventing the proposed development from proceeding. This fuels the perception that the building developers have the Local Authority Planning Department under their thrall.

This unfortunate situation appears to arise because the general public may not have understood that development is intended to occur in line with the LDP that was already been agreed (usually some years previously): If the land in question has been defined for certain uses in the LDP, the Local Authority cannot refuse reasonable proposals. Since building developers are aware of the LDP and tend to operate within it wherever possible, this means many planning applications will be approved even in the face of public opposition since the proposals will be in line with the LDP. The consequence of this in the public eyes, however, is that the Local Authority appear to have 'sided' with the developer against local opposition.

Developer Perceptions of Planning

Converse to the public perceptions of planning, in the construction sector, achieving a detailed planning

approval is typically seen as the single greatest risk to a project's delivery. Whilst achieving acceptable costs, detailed statutory technical requirements (Building Regulations), spatial demands, structural safety, and many more, all provide challenges for the development team, planning is universally considered the biggest risk and forms a major milestone in any project's development.

Ultimately, this perceived risk is seems to derive from the combination of the effort required to get to the planning application set against chance of failure (refusal). The planning application represents the only combination of "high effort: high risk" in the entire development process. Attempts to mitigate this risk through pre-consultation with the Local Authority (frequently now at a cost to the developer) do take a small step towards reduction, but ultimately all such pre-consultation advise is given "without prejudice" and therefore of limited value.

The result of such a combination of "high effort: high risk" is that developers will work hard to reduce both the level of risk and the level of effort (in effect, their total costs to that point). On the one hand, developers will therefore work closely with planning consultants and pre-application advise to ensure they are reducing their risk as far as possible. Conversely, developers will also be minimising their costs so that any failure that may occur has the smallest possible financial impact on them: In practice, this means the building developer will be appointing the smallest practical development design team on the minimum possible fee for the smallest scope of work that they believe they will require to achieve the detailed planning approval. This approach, in the extreme, leads to "no win, no fee" appointments of design teams and bare minimum levels of service being delivered until the planning risk has been resolved.

Planning's Unintended Consequences

The challenges on a modern planning system have increased as our understanding of the need to reduce energy demand from the built environment (and to opportunistically generate energy from it) has grown. The traditional needs of planning to ensure developments meet the needs of the local (and wider) community remains, through concerns over design, function, local impacts and usage, but the 'global community' needs to reduce the impact of climate change is also now a factor.

Designing a building to demand as little energy as possible places a new burden on that building's design team. This is especially relevant early in the design (before planning), when considerable evidence such as the findings from this Integrated Design project highlights the most important decisions about the resultant building's energy efficiency are made. It is before a detailed planning application is made that the design fundamentals are set, such as the building's height, orientation, depth of plan, volume of glazing and interaction with the ground level. To get the building design to demand as little energy as possible, considerable effort (and a number of design options) will be required from the design team to understand the Client's brief, the site, and way to resolve these to give a successful development with a low energy demand. All of these fundamental design decisions about the form and functions of the proposed development must be made before a "Detailed" planning application can be submitted for consideration by the Local Authority.

This presents the conflict in the system that is the unintended consequence: The "risk of failure" that our planning system creates through the current detailed planning application process makes it commercially unacceptable to allow sufficient time, effort and funding to produce the best possible low energy building design. However, a successful detailed planning approval also fixes the core design fundamentals of the building, and thereby prevents alterations subsequently that may allow an improved low energy design.

ReBalancing the Risk

Given the above, it is therefore argued that the Wales' (and the UK's) planning system is at odds with our need to develop low energy demand buildings because of the imbalance in the level of risk and level of effort required. Whilst computerisation and professional expertise may reduce the level of effort required to some extent, we have far greater potential to control or remove the level of risk that the current planning system creates.

This section therefore recommends that the UK planning system should adjust the level of risk in the planning process so that it matches the effort required through the process. This rebalancing would enable building developers (and their financial backers) to have greater confidence of the risk:cost balance to allow them to fund their building's designers more appropriately in the early design stages. Through more appropriate funding, the designers will be better able to deliver the lowest energy demand building achievable within the brief.

A Low Energy Planning System

Rebalancing the risks in the planning system could be undertaken a number of ways, but the most pragmatic is to acknowledge 'where we are' when we are endeavouring to determine how to move to where we need to be. This approach would therefore not presume to create a new planning process 'wholesale', but rather to make modest alterations to the current UK planning system that would remove blockers and enable an Integrated Design process. Through this methodology, the necessary rebalancing of the risks in the planning system can be achieved relatively simply through the following alterations to existing mechanisms:

1. Enhance Local/Unitary Development Plans and Public Engagement. There should be much greater emphasis on the LDP, especially around widespread public engagement. This should form the primary 'democratic' input into local development. This LDP should have greater detail, including potential massing and similar neighbourhood impacts, to ensure a well-informed process. With the advent of computer technology, 'ghost' models of neighbourhoods after development should be possible to allow the general public to easily understand the consequences of the LDP on their locality.

2. "Reactivate" Outline Planning for all development sites. Currently defunct in all but masterplanning larger sites, outline planning provided a mechanism to demonstrate that the basic principles of a building proposal (it's use, primarily, and perhaps general scale & massing), were in accordance with the LDP. Unlike pre-application advice, an Outline Planning approval provides a legally binding response that can be relied upon by developers and funders, whilst carrying detailed Conditions that ensure the subsequent detailed development of the building is not unconstrained. This step therefore provides reduced risk for the developer, but does not require the effort/cost of determining elements of the building form and massing which could preclude the best low energy design from being achieved by the design team at a later date.

3. Reduce Detailing Planning to a Technical Approval and remove public engagement. Detailed Planning Applications are currently the only "publicly perceived" stage of planning, frequently occurring too late for the general public to influence outcomes and too late in the design development compared to the risk they present. It is therefore proposed that the process of securing a detailed planning approval should be reduced to comprise a check for compliance against the LDP and its' previously approved supporting guidance, all of which would be required to have undergone thorough public scrutiny through the enhanced Local Development Plan process noted above. Only in cases of deviance from the LDP and its supporting guidance should a more thorough (and democratic) review of proposals be required at this point – proposals that do not deviate from the agreed LDP should not require a second public engagement.