

STATUTORY STRATEGIES AND POLICY

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INTRODUCTION

What is the effect of “informal” procedures on the balance between public and private gain in the planning system?

Through an “informal immersion” into the planning process of Bankside 123 our research cluster has identified certain aspects that question the dichotomy of the current planning system. Herein we attempt to provide a sincere perspective of what we have found in the past nine weeks of research, which is the constant duality between statutory and non-statutory, private and public, and, ultimately, formal and informal. In the face of duality, we were led to its opposite — balance. Therefore, our primary research question is, what is the effect of “informal” procedures on the balance between public and private gain in the planning system?

The research presented and analyzed in this chapter is primarily based on two sources; interviews and the local borough case file. First, we conducted interviews with peculiar but influential informal players in the planning process, such as DP9 and Four Communications, whose roles have emerged and evolved with changes in the planning system. We also interviewed Andy Thornley of the London School of Economics and Political Science, a critic of the politics of the planning system. Second, we visited the London Borough of Southwark to review the Bankside 123 case file, statutory documents and non-statutory guidelines, and to speak with local planning officers regarding the planning application approval process.

We address our main hypothesis through several lines of inquiry. First, through an analysis of the players and processes of the current planning system, we track the role of informal procedures in policy making, private/public agreements and new players that emerge from the importance of informal negotiations in the planning process. Our first discussion is on the regional scale — we analyze the London Plan as an example of how political and economic forces might shape strategic agendas, thus policy, in London. If the first discussion is the influence of private interest on the public domain, then our next discussion is the solicitation of the private sector by the public domain. So we move back down to the ground to review the Bankside 123 development Section 106 agreement, between the developer and the borough, to evaluate the balance between private and public gain. Then, to question the role of formal and informal players in the planning system, we investigate the role of DP9 as the planning consultant. Finally, we present the planning process of Bankside 123 as case study to exemplify our broader study.

- How much do private interests influence policy making? – GLA. Its proactive role and limited powers in a political context of social and economic development.
- What is the balance between Public Gain and Private Gain in the development process? – Section 106 agreement.
- What role do formal and “informal” players play in the planning system? –DP9, a new player nourished by a the need of informal negotiations in a “democratic planning process.”



Figure 1.0
The constellation of informal and formal players and institutions involved in the planning process in London.

THE CURRENT PLANNING PROCESS IN LONDON, TRACKING THE PROCESS AND THE PRESENCE OF INFORMAL PLAYERS.

The planning system in London is highly complex—various actors are involved in decision making which itself is constantly changing. Planning policy is multifaceted and difficult to understand, especially for outsiders; however it is still a democratic process that allows for public comments. Policy is constantly modified and revised, due to the flexibility of the system. The UK planning system depends on interpretation rather than rigid policies of zoning and density.

Various bodies create strategies for London and its urban growth. It is important to understand the vision that each of these statutory and non-statutory bodies pursue in a broader political context. Different bodies created within different institutions share and inherit common interests that will lead their advice, opinion, and decision making in the planning process.

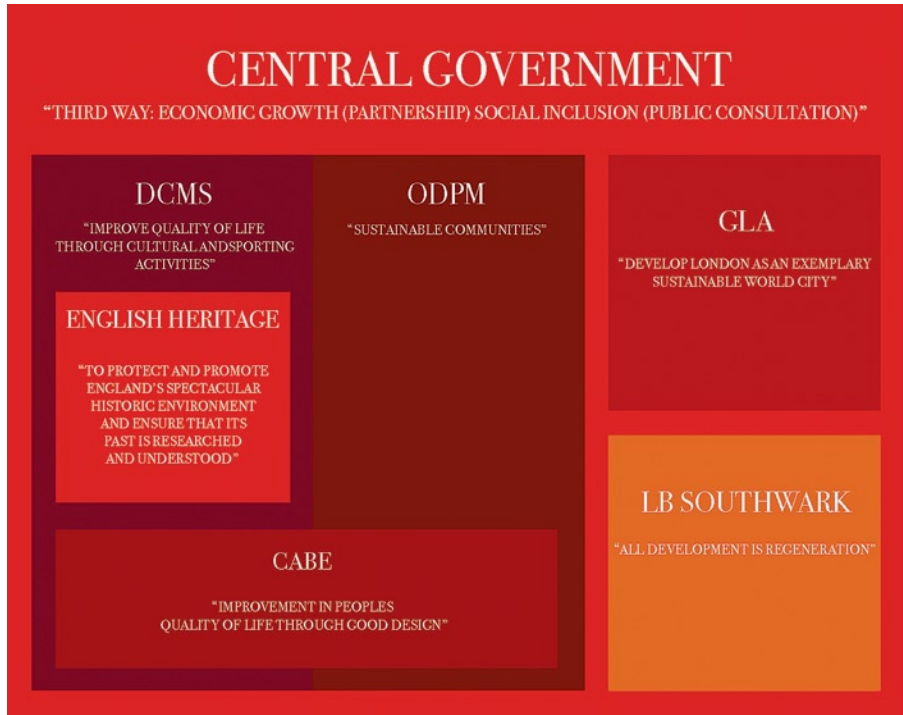


Figure 1.1
Nested diagram showing the vision of the different statutory and non-statutory authorities involved in the planning process and how they interrelate. This diagram demonstrates how visions permeate from the central government through to non-statutory bodies via sponsorship. In turn this visions influence guidance and decision making.

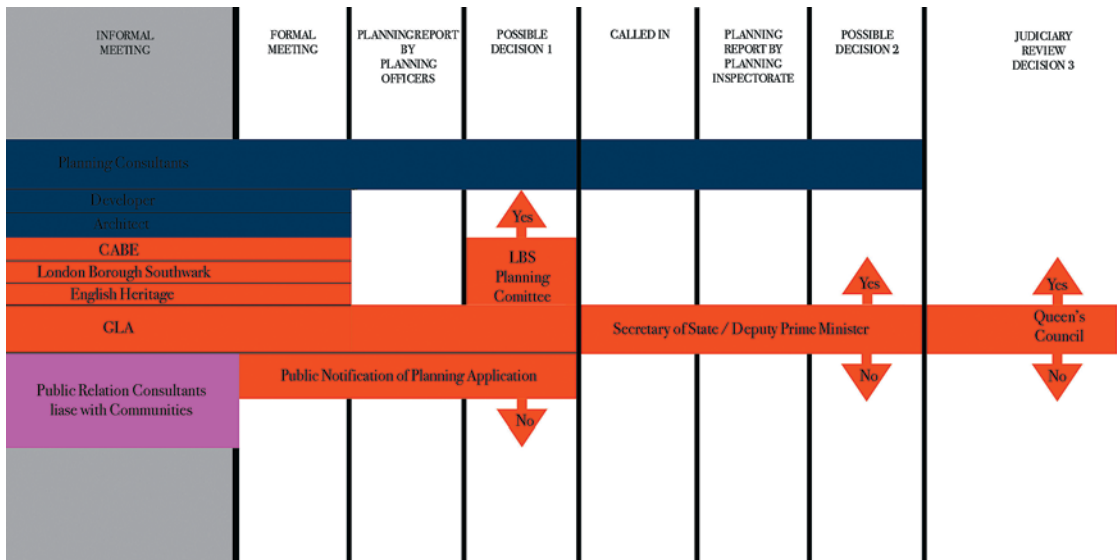


Figure 1.2
Flow chart showing the general planning process of decision making. The blue represents the private interests that are grouped together through the planning consultant that takes the planning application through the whole process. It also highlights the influence and continuity of informal negotiations, which the planning process allows. The red represents the role of the public sector within the planning process. It is composed of both statutory and non-statutory consultees with presence in both formal and informal meetings. The decision making process within the public sector relies on an internal hierarchy of advice however a project can still be called in at any stage by the Secretary of State. The magenta represents community, which does not always have the capacity to enter the process at this early stage unless through an organized community group or in conjunction with a public relations consultant. The planning consultant generally hires the public relations consultant on behalf of the developer to build a consensus with the local community.

HOW MUCH DO PRIVATE INTERESTS INFLUENCE POLICY MAKING? – THE GLA. ITS PROACTIVE ROLE AND LIMITED POWERS IN A POLITICAL CONTEXT OF ECONOMIC DEVELOPMENT AND SOCIAL INCLUSION

The policies and powers of the Greater London Authority (GLA) are the articulation of political and economic interests; however their outcomes become mutually exclusive when the political ideology calls for social inclusion and the business interest not only cultivates an intimate relationship with the mayor, but also demands the creation of the body itself and shapes its forerunning policies. We examine The London Plan as the culmination of competing interests and guiding the future of development in London.

POST-GLC VOID: BUSINESS PRESSURES FOR A LONDON VOICE

The Greater London Council (GLC) was abolished in 1986. At that time, London moved to the hands of the Central Government and 33 boroughs (including the Corporation of London). Although there were positive outcomes related to the abolition of the GLC (it forced boroughs to compete with each other for private investment as well as to develop stronger administrations), the lack of an intermediate regional body resulted in empowered local authorities with inward-looking visions and the Central Government with a subscription to the over-eager business lobby. The result was an agenda produced by Central Government and business,

"The agenda was being set by central government and private sector organizations over the vision for the city. Thus, if there was an urban regime of a kind in this period it was involving central government and organizations like London First, the City Corporation and the LDDC¹".

During this post-GLC void, many business organizations with a vested interest in the city developed, such as The London Planning Advisory Committee (LPAC²). This organisation was a joint body made up of representatives from the boroughs and it prepared strategic planning reports to advise the central government on its production of the Strategic Planning Guidance (SPG) for the City. LPAC studies concluded that if London wanted to remain a world city it needed a single voice to promote itself and attract business.

By the 1990s the central government accepted the view that London had to enhance its competitive position and fragmented structure, so in 1992 the London Forum was set up to promote the capital and soon merged into London First, a private business lobby group of considerable influence. Together with London boroughs, London First produced a London Pride Prospectus to set up policy priorities in order that business competitiveness was assured at the forefront.

THE ELECTION OF LABOUR: BUSINESS SHAPES URBAN POLICIES

The election of the Labour Party in 1997 produced a new political context for business to demonstrate its precise knowledge of the political agenda because New Labour sought to rejuvenate the local democratic process through the adoption of 'The Third Way' approach.

"Tony Blair promised 'a proper strategic authority for London to replace the mishmash of boards and quangos'- Thus the New Labour government promised a shift in direction in which local democracy was to be restored in importance...this climate involved a more participatory, inclusive approach to policy making.³ "

Although Mr. Blair's vision for returning local government to London coincided with the desire of the business community for a metropolitan authority, the political ideology potentially stood in the way. However, many business representation groups, including the London Chamber of Commerce and Industry (LCCI), presented strategies for the new city authority which guaranteed the continued relationship between government and business.

At about the same time of the consultation paper on the GLA in 1997, the LCCI developed its approach to the new London Government, commissioning a report by Ernst and Young to review how business might best interact with the new government. The LCCI took from the report the idea that 'for business to have an effective role in the GLA, it must be able to speak with a single voice' and soon, promoted a London Business Board (LBB) to provide focus for business interests (including members such as Confederation of British Industries, CBI, and London First). Before the mayoral election, the LBB produced the 'Business manifesto for the Mayor and the Greater London Authority' where it was stated, 'the health and global competitiveness of London's economy must be at the heart of the GLA as the pre-requisite for achieving all other policy aims...'

Another example of private sector intimacy with central government is the London Development Partnership (LDP), an economic development think tank for London. The LDP board consisted of representatives of public bodies, including representatives of the CBI London Region, London First, London Chamber of Commerce and Industry and the Corporation of London. In 1998 they published their first report, Preparing for the Mayor and the London Development Agency. In January 2000, they passed their Draft Economic Development Strategy to the Mayor, which formed the basis for the Economic Development Strategy produced by the London Development Agency (LDA) at the end of 2000. The LDA board was composed of many of the same businessmen from the LDP board.



Figure 1.3
Business influences impacting upon
the creation of the GLA and its
economic development strategy.

THE GLA: BUSINESS GETS A MAYOR

The Greater London Authority Act (GLA Act) of 1999 appointed an elected mayor for the first time in London's history, but with limited powers. The GLA Act echoed the words of Mr. Blair, providing for consensus-building politics in the development of policy strategies — it required the GLA to consult with the boroughs and the Corporation of London, and various racial, ethnic, religious and national-group organizations. The GLA Act required the mayor to develop eight strategies for London—economic development, transport, biodiversity, noise, waste management, air quality, culture and a spatial development strategy. The Spatial Development Strategy (SDS) is known as "The London Plan" and is meant to draw together all of the strategies. The GLA Act also requests a yearly report by the GLA to Londoners, and two public meetings per year.

Ken Livingstone has a long relationship with London politics—he is often labeled as "Red Ken", a reference to his radical left wing politics during his time as leader of the GLC, until Mrs Thatcher abolished the council for its anti neo-liberal ideal of the free market. Running for mayor in 2000, Mr. Livingstone had a fallout with the Labour Party and had to run as an independent candidate. Without party support, Mr. Livingstone acquired the support of businesses and won the election. In his manifesto he promised to 'introduce the most open, accessible and inclusive style of government in the UK', sometimes referred as the "Big Tent." Mr. Livingstone was so committed to the principle of social inclusion that he went further than the GLA Act to promise public consultation for all strategies produced by the GLA. Through eighteen public stakeholder groups he would gather feedback from Londoners on the development of the strategies for London. He also created six policy commissions to meet, debate and make suggestions to GLA policies. They mainly included invited experts, NGO's and business lobby groups, however in contrast the strategy for encouraging public participation was less clear. The public stakeholder commissions were told that their reports would form the foundation for the mayor's agenda-setting process however this did not happen.

BUSINESS, KEN AND THE LONDON PLAN

At the beginning of his mandate the mayor had to efficiently use his limited powers. This can be seen throughout his administration where his weakness was a limited budget and his power the elaboration of strategies for London. The role of strategy production plays a key role in a Third Way environment. Where government needs to negotiate with markets in order to reach a balance between economic development and social inclusion.

London cannot rely solely on central government for its budget if it is to compete with other world cities. The Mayor has taken an economic development bias due to his need for resources and businesses willingness to cooperate to advance their own interests. Compared to other world cities London receives a much smaller budget, has a reduced staff and is not capable of switching funds between the different bodies of the GLA. Thus, it relies on business and partnership for sustaining its needs and the ambitions of the new administration. Not surprisingly the adoption of the London Development Partnership –blurred into LDA, and their economic development strategy shaped the following strategies required by the GLA Act.

The Mayor soon prepared a framework for relationship with business. In The Mayor and Relations with the Business Community, the mayor expressed his interest in London becoming an economically competitive city. The document listed the key features of mayor/business relationships: openness, frankness, confidentiality, partnership, pro-activity, reciprocation and professionalism. To assist his relationship with business the Mayor has taken into consideration the need to protect businesses confidentiality.

Considering the Mayor's political agenda, with economic development as the top priority in strategy formulation, it is interesting to analyze how The London Plan is preferential to business.

"...Employment change in London from 2001 to 2016, showing that the net overall growth in jobs would be 636,000. Given the dominance of the office-based business sector in these employment projections, the availability of suitable office accommodation is a critical issue. 4"

With reassuring predictions, London's future population and job supply will increase considerably, creating a need for development and a speculative market is welcomed in order to provide a World City.

"My vision is to develop London as an exemplary sustainable world city."
(Mayor Ken Livingstone, GLA)

In order to deliver a world city the Mayor relies on economic and population growth in London, thus office space is needed; in order to develop a world city that is sustainable. The logic of the London Plan is to concentrate housing and work space through density near transportation nodes. The result is tall buildings. Tall buildings can generate more open space in a dense city, but the question of sustainability can always be argued as relative on many other factors such the embodied energy that tall buildings require as well as the energy it can consume in providing vertical infrastructure.

The London Plan presents clear evidence of the role of private interests influencing policy making through its long process of consultation and delayed publishing. Hence it is in our interest to present its evolution and the players that attempted to shape it. The London Plan was expected to go through a process of consultation however it was interrupted by the Mayor because it did not comply with his political agenda. After the ambiguous process of consultation through the 'Big Tent', the London Prospectus was forwarded by the Statutory Directorate to the Mayor's Office for approval. Rejecting this proposal, the Mayor's Office together with two external advisors, published a draft called Towards the London Plan to be examined in public. After the process of examination, the London Plan was published, loaded with influence from the Economic Development Strategy and leaving many contributions of the previous processes behind.

The New Labour Big Tent ideology, demonstrated an intention to build consensus and participation with Londoners on policy making for the new GLA. Mr. Livingstone seeking consensus with central government, despite inner conflicts with the Labour Party can be seen as an example of this. Meanwhile business had already found its way to the top of the ladder through its support for Mr. Livingstone and the development of strategies for the LDA. Due to business being organized and influential from the beginning of the creation of the GLA it has managed to gain preferential access to the GLA's political agenda. For example the London Development Partnership continued its role of pressuring the strategic agenda of the new authority and by May 2000, produced a report called Promoting the World City: Memorandum for the Mayor and GLA.

The relationship between the Mayor, Central Government and business is of such complexity that the Third way seems to have no more space for a fourth member. Public inclusion in the process of policy making seems to be a rhetoric while business rules over any political disdain, providing an environment in which political opponents have the same opinion.

"...Blair and Livingstone are combining collaboration with business, necessary because of increasing competition in a globalised world, with an approach that is consensus-seeking and participatory.⁵ "

The role of being socially responsible is being left in the hands of business, economic development is already the priority for London and public institutions such as the GLA seem to facilitate this environment. Social benefit from alliances and partnerships are now commonplace, responsible professionals in both public and private sectors look as if they have to answer the question of how much do private interests influence policy making?

"Regular and confidential meetings then took place between the business sector and the Mayor's Office. This provided the business interest with privileged access and had considerable significance, as they were able to focus on the real centre of power and input their views at a very early stage. Meanwhile other interests had to rely on the more peripheral and reactive access of public meetings and Assembly debates. Special initiatives such as the stakeholder sessions and Policy Commissions were not clearly integrated into the agenda-setting process.⁶ "

In the meantime the first step has been made, private interests now have a stronghold on policy making, the creation of the GLA is evidence of this. Hopefully, now that the GLA has a proactive role, which is empowered by partnership and private investment it will be able to deliver the other side of the balance towards public gain from private investment, only then will the economic and political context of the Third Way model be effective.

WHAT IS THE BALANCE BETWEEN PUBLIC GAIN AND PRIVATE GAIN IN THE DEVELOPMENT PROCESS? – SECTION 106 AGREEMENT.

S106 is a tool of a market-led system. It is a legal agreement made under section 106 of the Town & Country Planning Act 1990. It is an agreement between the developer and the local planning authority, a result of sometimes lengthy bargaining, to mitigate negative impacts of the development on the local area.

Governments have always been cautious of reforming the welfare state because it has always proved popular. Within the last 30 years it has become increasingly obvious that it can no longer be sustained especially if London wants to remain a world city. Taxing development through S106 has become an easy and politically pragmatic tool of balancing private and public interests by sustaining public investment while promoting development.

The most fundamental disagreement regarding planning and the use of S106 stems from a personal conception of what planning should achieve. This in turn is derived from one's personal attitude towards the market economy. Attitudes towards the use of S106 agreements can be divided into two groups; firstly it can take a traditional approach and be "market critical"¹, therefore taking specific action to redress the imbalances and inequalities created by the market. Secondly it can be "market-led", correcting inefficiencies while supporting the market process. The latter reflects the current planning attitude towards the market economy. Therefore planning could have once been described as being market critical however it now takes a positive view of the market and uses development as a means of extracting social benefits to slightly offset the dominance given to the market. Therefore attitudes towards the application and success of S106 are based on what an individual thinks the planning process should provide. Developers often regard it as a lengthy nuisance while local authorities have increasingly become reliant on the benefits it can provide.

Bankside 123 is an example of the balance between private and public interests through the evolution of the S106 agreement. The built form of St. Christopher's House had been recognised as a barrier for public movement towards the river and Tate Modern. One of the primary requests for any redevelopment of the site was to provide permeability for public access and provide some local retail to animate and retain custom in the area for the local residents, tourists visiting the Tate Modern and local workers. This coincided with the intentions of Land Securities, as it would make the site appealing to prospective occupiers. However a large sum of the S106 agreement (£3.6 million out of the total £8 million settlement) remained with Land Securities to pay for the landscaping of the public space. This highlights the strong position of Land Securities in relation to the borough due to the fact that a required and necessary element of the scheme that Land Securities would have delivered anyway to make the development commercially viable was included within the S106. Furthermore the money will remain with Land Securities to pay for the construction of the public space, however this raises questions of whether the full amount will be spent on the space and how will this be tracked. The effect is that it makes Land Securities S106 contribution appear much larger than it actually is and delivers less additional benefit to the local community as may have been presented.

There was a major adjustment to the original scheme as outlined in the approved planning application which highlights the extent to which this development is market-led, and prioritised market requirements over local requests. The swimming pool was a primary request made by the local residents as highlighted in the Draft Heads of Terms. It was to be provided by the development and made available to local residents at a concessionary rate however Land Securities did not deliver a swimming pool due to the advice of CBRE² who proposed that the floor to floor heights were insufficient for the inclusion of a swimming pool. Furthermore without the swimming pool the area set aside for leisure would be too large to attract commercial retail operators and would have to be reduced to be commercial viable. This highlights the power balance between private and public interests. It demonstrates that alterations to the scheme were made to meet market requirements, in this case to the detriment of local residents.

S106 contributions together with the overall perceived beneficial impact of the development gives developers leverage to skew the planning process in their favour. For example when Land Securities wanted to significantly reduce the amount of space designated for retail in Bankside 1 it was told that this would necessitate a fresh application for planning permission. However DP9³ replied by emphasising the benefits which the development would bring, principally the S106 agreement of which the first wave of payments had already been released and its overall impact on the surrounding area, all of which would be jeopardised by forcing Land Securities to make a new application. To reapply for planning application would have been both costly and risky for Land Securities because it would have inevitably delayed the completion of building one that was already leased to IPC. DP9 was therefore in a favourable position in which it could use S106 as a bargaining tool to achieve its aims.

The S106 negotiation is testament to the informal nature of the UK planning system. In this example it demonstrates the ongoing, informal and complex nature of S106 negotiations between both parties until they each reach a mutually beneficial agreement. This creates a specific space for specialised consultants such as DP9 and 4 Communications who are employed by the developer to facilitate and expedite the planning application process. In this case DP9 used a report by CBRE as evidence for its case of adjusting retail and leisure floor space. This demonstrated the extent to which informal bodies play a substantial role within the process. However even though in the case of Bankside 123 the balance of power rested with the developer this is not always the case. The most powerful player is largely dependent on the political context of the time. For example, for Bankside 123 the political climate at the time was pro-development, party politics was stable and the existing building was in poor condition. However if the same proposal were presented today, it may be received differently due to a different political climate where councillors are facing local elections, local residents are alarmed by the size of the buildings and there is a general sense of development fatigue. Therefore the position of current political players in negotiation can always shift depending on the climate of the time.

Is the S106 contribution from Bankside 123 sufficient? This is a matter of personal opinion. Some would argue that it does not sufficiently offset the dominance of private interests however others would say that it is not the role of planning, and more specifically S106, to deliver anything more than mitigating the direct impact of the development on the local area. Overall the local residents and the Bankside Open Spaces Trust⁴ (the main community group) were content with the legal agreement however their sense of "success" could be questioned. Could they have received greater benefits had the planning gain system been different? Land Securities were also content with the end result of the legal agreement as the overall cost of the financial contribution will be minuscule in comparison to the profits that this project is forecast to deliver. Here the system of informal negotiation reached a mutually beneficial consensus between both private and public interests.

Concerning improvements and the future of S106 reform is needed because the current system is seen as opaque, slow, unfair, complex and reactive. It is hoped that reform will achieve a more simplified and transparent system that will in turn expedite the lengthy and costly process.

S106 is currently in a transitional stage. The new Planning and Compulsory Purchase Act 2004 of which section 46 and 47 give the Secretary of State the power to make regulations to replace S106 provides a framework for reform, details of which will be made through regulations and orders. Last summer the ODPM released a new Circular (05/05) which will replace the Department of Environment Circular (1/97) on S106. It is to be used as interim guidance before full reform is brought forward on how planning authorities are to implement formulae and standard approaches to S106 agreements including guidance on how to pool contributions which is far easier than under the previous planning gain circular. Therefore currently S106 is working under a twin track approach where planning authorities can either ask for a set contribution, much like a shopping list of required public needs or follow the traditional path of negotiated agreements. In some cases local authorities may even undertake both tracks simultaneously to reach a final agreement.

In response to the Barker Review⁵ final report which recommended the introduction of a Planning Gain Supplement (PGS) a third option for reform of S106 is currently under consultation, to be reported this autumn. PGS's are intended to "capture a modest portion" of development value arising once full planning permission is issued. These funds are to be spent on local and strategic infrastructure; existing S106 contributions will then only be used to cover site-specific measures. This proposed reform has sparked controversy especially from developers who view it as simply being a stealth development land tax with the provision of infrastructure that should be funded by the Treasury being shifted to developers. Other objections argue that this form of planning gain will also have its' own inherent problems for providing funding for infrastructure as it does not address the fundamental question in planning of "who comes first" the development or the infrastructure. Prudent developers may therefore wait for other developers to step forward first and pay for the infrastructure so that they can gain. This system could therefore have several negative side effects for the pace of development.

Developers will most likely welcome the S106 reform because it will create a more streamlined and transparent system. Currently negotiating S106 is a slow process and a source of delay. However the proposed reforms, especially for PGS might discourage private development with excessive taxes, especially during an economic downturn. The problem is therefore to reform the current system without inadvertently disturbing the fine balance of informal networks between private and public interests that are currently able to deliver social benefits.

At the moment S106 largely takes place through informal negotiations, the public is not invited to participate in the process. With the proposed tariff reforms the system may become more transparent however it still fails to incorporate local participation.

As a result of “Third Way”⁶ politics S106 is heavily relied upon to deliver social benefits while promoting development. In the short term this may be politically pragmatic but the long-term effects are less clear. Will this result in the public being burdened with an abundance of inflexible office buildings that were pushed through planning due to generous S106 agreements, unfortunately there are no stringent safeguards to stop this from happening.

It is imperative that the right balance is struck between regulation and flexibility, informal and formal and private and public interests to enable London to strengthen its world City position and protect the integrity of future development.



Figure 1.4
Demonstrates the players involved within the S106 agreement for Bankside 123.

WHAT ROLE DO FORMAL AND “INFORMAL” PLAYERS PLAY IN THE PLANNING SYSTEM? PLANNING CONSULTANTS

Negotiation. It is the planning consultant's only tool and yet he is able to exercise significant influence. How can that be?

First, to introduce this player—the planning consultant is an informal player in the planning process game who is paid by the developer to advise, prepare and gain approval for a project. The planning consultant is usually a town planner himself and is significantly established in the field (this is almost requisite because his contacts are vital). The planning consultant might work in a very large firm with a planning consultant division or he might work in a smaller firm that works exclusively in planning consulting. The latter type of firm is likely to grow in the future, as the potential for conflict of interest between departments is an increasing concern in the former situation.

Planning consultants are hired in the first instance to provide advice; here the additional delivery of service (securing planning permission) is related to his particular experience and relationship with the borough. Although the planning consultant is acting as an agent for the developer when working with the borough, it should be said that the consultant is absolutely working for private gain and must also be able to support the project, as his involvement in “good” or “bad” projects affects his reputation in this field of friends, networks and contacts.

We classify this player as informal because he is not explicitly part of the process (the process does not include, “and then the planning consultant will...”). Also, informality develops spontaneously in response to a problem, change or opportunity. The role of the planning consultant expands as the increase in the number of planning decisions made through informal, or private, channels and away from bureaucracy and policy.

In our study, Land Securities hired Montagu Evans, chartered surveyors, as planning consultants. Paul Henry is the lead contact at the beginning of the project for Montagu Evans, until 2004 when nine planners from Montagu Evans left the firm to form their own practice, DP9, including Mr. Henry. At this time, however, Henry retained Land Securities and the Bankside 123 project and the agent is formally changed from Montagu Evans to DP9 in a letter dated 26 April 2004 to the London Borough of Southwark.

This body of research is supported by two main pieces of information; an interview with Paul Henry that took place on 16 February 2005 and the case file for Bankside 123 that is located at the London Borough of Southwark Regeneration Office.

When asked to describe his job, Henry responded, “generally, our job is to negotiate the planning application through the process.” It is interesting that he uses the word “negotiate” because there are two separate meanings; one, to negotiate is to reach an agreement by discussion with others and two, to negotiate is to overcome an obstacle or hurdle. For the planning consultant, is the planning process an opportunity to engage with the public and statutory consultees or an obligatory task to barrel through? In order to examine this more closely, let us look to the strategies of the planning consultant.

Based on our interview and the case file, the strategies of the planning consultant in this case are as follows; to have many meetings and then refer to those many meetings in writing follow-up letters to the borough, keep a high-profile with the borough, acquire more consultants to submit reports of expertise, and in sum, pressure the borough to move forward.

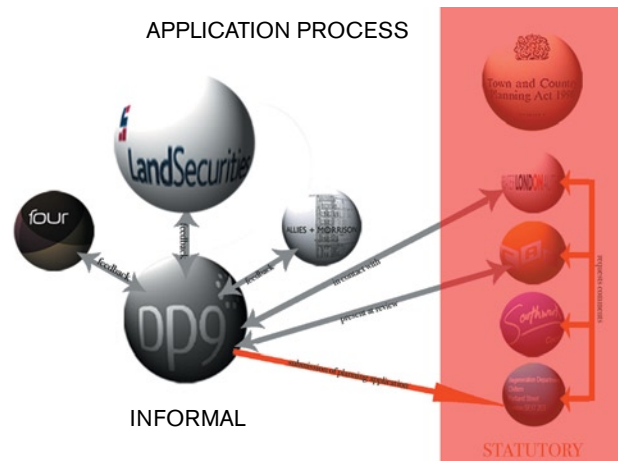


Figure 1.4
Shows the key players involved within the planning application. 4 Communications was not a part of the Bankside 123 process however they represent the role of public relations consultants.

Confirming what Henry stated during our interview, that most of his business is done by many different meetings throughout the day around the city, the case file certainly supports this. In addition, he reiterates the last point of contact and the next anticipated point of contact,

"You may recall we spoke during December 2001 about the above application, which was submitted to your Council on 1 October 2001. During our discussion, I requested a meeting with your department to discuss the progress of the application, given that we had identified March 2002 as a reasonable date by which time your Committee should be in a position to consider the application."

There are four other examples in which Henry begins his correspondence by quoting the last correspondence, "Further to the meeting of 24 April 2002", "We spoke recently on the telephone about my client's applications", "We refer to our meeting held on 24 July 2004" and "I refer to our previous discussion regarding this site and my subsequent meeting with John East on 20 October 2004." Indeed the informal player adopts a very formal correspondence style in order to compel the borough to act and maintain a high profile.

The planning consultant also coordinates the experts. In this case, the statutory consultee, English Heritage, did not object to the project so Mr. Henry sent the following letter to the organization and the borough as well,

"I understand you have been asked to consider English Heritage's position with particular regard to the potential impact of the scheme on the Hopton's Almshouses. I know when we spoke you were very supportive of the scheme, and when you subsequently attended the CAGE presentation you reiterated your support. We believe that the quality of the scheme proposed is very high in terms of architecture and urban design."

In this case, he is required to consult English Heritage but the planning consultant also uses his network of contacts to position other consultants in line to give matters of expertise regarding the application (for example, to submit reports in support of a condition of the planning application). Here, Scott Wilson was hired to produce a report, "Waste Generation and Requirements" for condition six and visibility splays for condition eleven. The condition reports are also necessary, in this instance, Mr. Henry is "negotiating" in the mundane sense of the word.

Lastly, the planning consultant compels the borough (or other players such as statutory consultees) to act. There is evidence above that the planning consultant reiterates dates to invoke urgency, but his joker card is the Section 106 agreement. In pressing for an immediate approval or an amendment to a consideration, Mr. Henry writes that any further delay would be prohibitive, "There is therefore potential for further delays which would not only jeopardize the development of the site for a major commercial occupier, but also prevent the regeneration of the surrounding area by the implementation of a very significant planning gain package.³" Mr. Henry was quick to pull the agreement for public gain from the table in order to compel the borough to act on the consideration.

The methods and strategies of the planning consultant are legitimate and successful in pursuing private interests. However, but to look more closely, this informal actor is in the game because something else is broken. How will this player's role change in the future if the system is going to be different?

If the role of the planning consultant expands through growth of informal decisions and processes, then the future of the profession is bright! As formal processes become more complicated (as they are), then informal decisions will take over and hence, more work for the planning consultant. Mr. Henry said during the interview that one of the reasons planning consultants are hired is because they keep abreast of current policies. Over the course of the past six years, there have been many changes in the planning system, and even still there are variations between boroughs. In Southwark, for example, there have been three major changes in the planning system as follows: first, the development of the Southwark Plan to replace the 1995 Unitary Development Plan (UDP), second the introduction of the GLA and the London Plan and third, the national Planning and Compulsory Purchase Act 2004 which introduces new operating principles for planning called Local Development Frameworks (LDF). In sum, the increase in informal meetings and the changes to the planning system will contribute to the growth of the planning consultant in the future.

To return to an earlier question, which definition of "negotiate" does the planning consultant respond to: negotiate is an opportunity to engage with the public and other statutory consultees or to negotiate an obligatory task to barrel through? Perhaps the answer is, that the planning consultant does engage with others to discuss the project's merits, but he engages other (informal player) consultants, who are then hired to draft reports regarding his expertise in order to push the application through the formal process of the planning system and secure private gain.

CASE STUDY BANKSIDE 123

		POLICY PLAYERS							
		INFORMAL		FORMAL AND STATUTORY CONSULTEES					
		PLANNING CONSULTANT*	LONDON BOROUGH OF SOUTHWARK (LBS)	OTHER STATUTORY CONSULTEES	ENVIRONMENT	COMMUNITY	CABE	GREATER LONDON AUTHORITY (GLA)	NATIONAL GOVERNMENT
2001	DISCUSSION	08.17.01: ME to LBS: intention to submit plan and adopt scoping opinion							
		30.08.01: LBS to ME: need to submit a plan for a scoping opinion							
		31.08.01: ME to LBS: submit plan for scoping opinion							
		09.01: environmental impact assessment							
		05.09.01: daylight and sunlight study submitted for scoping opinion							
		12.09.01: CABE review							
	APPLICATION	01.10.01: ME to LBS: notice of making application							
		03.10.01: ME to LBS: submit application for £9,500							
		15.11.01: site notices are posted							
		21.11.01: support letter from 16 Hopton's Garden Hopton Street							
		22.11.01: LBS to GLA: make referral							
		27.11.01: Environment Agency Report							
		28.11.01: objection letter from 401 Bankside Lofts							
		29.11.01: objection letter from 90-92 Southwark Street							
		03.12.01: GLA to LBS: confirmation of referral							
		03.12.01: TATE letter in conditional support							
		27.12.01: LBS to GLA: formal consultation of mayor							
		08.03.02: mayor considers proposal							
		11.03.02: GLA to LBS: recommendation							
		03.02: ME responds to mayor's comments to LBS							
		29.04.02 ME to EH: regarding consideration							

2003		05.02: ME to LBS: <i>revisions</i> to plan							
		07.06.02: objection letter from 401 Bankside Lofts							
		06.02: LBS is minded to grant permission							
		31.07.02: LBS to GLA: advises the mayor of decision							
		12.02 A&M to LBS: submit <i>non-material changes</i> to plan							
		01.03: ME to LBS: <i>revisions</i> to plan							
		27.06.03: LBS: planning permission <i>granted</i> with thirteen conditions							
2004	NEGOTIATION	13.10.03: ME to LBS: conditions 8 and 9 submitted							
		11.03 A&M to LBS: submit "Rationalization of retail space"							
		10.12.03 : ME to LBS: conditions 10, 11, 13 submitted							
		04.03.04: LBS: condition 10 approved							
		26.04.04: CHANGE OF AGENT ME to DP9							
		07.05.04: LBS: condition 13 approved							
		18.05.04: LBS: conditons 8 and 9 approved							
		05.07.04: DP9 TO LBS: NOTICE BEGIN CONSTRUCTION							
		08.07.04: DP9 to LBS: condition 2 submitted for building 1							
		29.07.04: DP9 to LBS: after consult with CBRE a swimming pool is not possible							
		07.10.04: LBS: condition 2 for building 1 approved							
		10.10.04: A&M to LBS: condition 2 submitted for buildings 2 and 3							
		07.01.05: DP9 to LBS: condition 6 submitted							
		31.03.05: LBS: condition 11 approved							
2005	25.07.05: DP9 to LBS: condition 3 submitted								
	21.10.05: LBS: condition 3 refused								
	27.10.05: DP9 to LBS: condition 3 submitted for the second time								
	18.11.05: LBS: condition 6 approved								
	23.12.05: LBS: condition 3 approved								
2006									

EXPLANATION OF CASE STUDY

The following table represents a summary of Bankside 123 planning application process, based on the case file at the Regeneration Department of the London Borough of Southwark. We recognise this presents a biased perspective and we are unable to track the informal meetings outside of the borough (for example, between the planning consultant and the GLA). However, we do track informality in the planning application process as well as the role different bodies play and how much is contributing to a balanced public / private gain from development.

The planning process can be separated in three major sectors: discussion, application and negotiation.

The borough, as expected is present at three stages of the process. In the first, the borough meets with the planning consultant and in the second instance, the borough is very active in the "negotiation" stage to represent the community and balance private and public gain. Surprisingly, there are no letters in the case file between the borough and the statutory consultees requesting the reports published before the application process; this is evidence that the planning has usurped the jobs of the borough. Behind the borough, the planning consultant is the most present player. The community is only consulted during the formal process, not the informal.

The abrupt appearance of English Heritage in the case file signifies how informal activity facilitates the process and how informal players exert influence in the process.

On the contrary, the consultation of environmental interests and CABE in the early stage is merely lip service and is used to inflate and expedite the planning application. This also shows that these players are not particularly important or influential.

The role of the GLA in this process, before the development of a strategic agenda, shows how the office uses strategic powers to support office development. The recommendation made by the GLA was of little importance and an opportunity to establish precedent in the formal application process.

The national government is not present in this case. In fact, it is unique for the national government to become involved unless the case goes to inquiry. Since the project did not require the Secretary of State, this case is not considered to be a matter of national interest.

CONCLUSIONS

To address the question of how to balance public and private gain, third way politics creates a fruitful environment. With economic development and social inclusion as priorities for a globalized economy, the third way politics helps to tackle inequalities and extremes. Nevertheless there seems to be a contradiction between the consensus seeking of the third way. The rhetoric of participatory policy making opposes the power of influential business in a partnership regime. Moreover, local authorities play the role of a facilitator for development instead of a balance between public and private gain.

The current political environment appears to be a more fruitful environment for private interests rather than balancing public and private forces. Business intention to overpass the bureaucracy of a democratic “inclusive” Third Way finds its way in an agenda where economic development takes place before social inclusion. In the meantime, informal procedures take place and informal players are nourished.

Through interviews with different representatives of “informal players”, such as DP9 and Four Communications, we have encountered a true commitment and professional ethics in decision-making and their pro-active approach to planning. Nonetheless, as London continues to grow with the expansive development that results of the World City vision and speculative market, the system will have to rely on new mechanisms to control informality, which in turn brings the question again of how democratic the planning process can be in a pro-economic development environment that might be the result of global forces over a local distracted community. A community distracted by the rhetoric of social inclusion.

S106 has increasingly been used to offset the balance between private and public gain. At the moment the system is in transition. It hopes to evolve into a more fair, transparent and streamlined system that will be more effective in delivering public benefits from private development however it is still unclear whether the proposed reforms will be able to achieve this and if so what will be the long-term effects.

There are so many new developments in the planning system—policy changes, structural changes, and changes to even the way informal players operate. However, planning system reform to the planning system will continue to benefit private interest. Public interest will be served when the community is able to transform into an informal player.

ENDNOTES

How much do private interests influence policy making? – GLA. Its proactive role and limited powers in a political context of economic development and social inclusion

¹ Thornley, A., Rydin, Y., Scalon K., West K. (2002) The Greater London Authority – Interest Representation and the Strategic Agenda. p.15

² LPAC are the London Boroughs' statutory planning committee. It was set up in 1986 by the Act of Parliament which abolished the Greater London Council (GLC). Its main role is to give Londoners, through their local Borough representative, a say in the overall planning of London.

³ Thornley, A., Rydin, Y., Scalon K., West K. (2002) The Greater London Authority – Interest Representation and the Strategic Agenda. P.1

⁴ GLA, London Plan, Chapter 3. P.88

⁵ Thornley, A., Rydin, Y., Scalon K., West K. (2002) The Greater London Authority – Interest Representation and the Strategic Agenda. P.14

⁶ Newman, P., Thornley, A. (2005) Planning World Cities – London: From Fragmentation to World City Promotion. P.159

What is the balance between Public Gain and Private Gain in the development process?
– Section 106 agreement

¹ Brindly T, Rydin Y, Stoker G. Remaking Planning, The Politics of Urban Change. 1996. Routledge. London. p. 9

² Commercial real estate specialists, see Organisational Structures chapter for more information.

³ The planning consultant employed by Land Securities, see chapter 3 for more information.

⁴ For more information on the Bankside Open Spaces Trust (BOST) refer to Civil Society and Public Space Chapter.

⁵ Barker Review of Housing Supply, Delivering Stability: Securing our Future Housing Needs. 17 March 2004.

⁶ For more information refer to Chapter 1.

What role do formal and “informal” players play in the planning system? –DP9 new player nourished by a the need of informal negotiations in a “democratic planning process”

¹ 15 January 2002.

² 29 April 2002.

³ 27 July 2004.