



PHILLIP BARNES, PARTNER, NATHANIEL LICHFIELD AND PARTNERS, ON THE IMPLICATIONS OF NEARLY THREE YEARS OF PPG3

The Road Ahead, Velux training centre, 4 December 2002

PHILLIP BARNES

The theme of my paper is going to be how planners, architects, local authorities and house builders can address the density, design and parking requirements of PPG3 in a way which is acceptable to all four parties.

In terms of the structure of my paper, I am going to introduce it with what I think are some of the key contextual elements to that theme, then look at what PPG3 actually says and does not say about parking density and design, have a quick canter through some appeals and try and learn some messages from those before drawing some conclusions.

So, looking at the context, the first element of context is obviously that housing needs must be met, and that is made very clear in PPG3. Housing needs must be met without unnecessary greenfield development.

In looking at housing needs, we must be aware of very significant inter-regional variations. London is the biggest city in the south-east, the regional capital and national capital. It has a housing requirement of 23,000 dwellings per year. Newcastle is the regional capital of the north-east. It has an annual requirement of 350 dwellings per year. The housing needs are far more pressing in the south-east than they are in some of the northern regions.

To meet housing needs in a way which does minimise greenfield housing losses there is a requirement to build at high densities. PPG3 encourages that, but in the south-east we now have the density directive which is aimed at enforcing that.

The second contextual element it seems to me is the market. It is a very strong market overall and has been for some significant time. There are exceptions. The market is very fragile in some areas of the north, but overall a very strong market, a much stronger and strengthening market for urban living, an increasing population from 1,000 to 10,000 in Central Manchester over a ten year period; from 500 to a projection of 5,000 in a five year period in Central Newcastle.

Driving that strong a market for urban living and a stronger market for higher density living is driven by the fact that 80% of the newly forming households, which are driving the housing needs, are single person households.

The Road Ahead, Velux training centre, 4 December 2002

Local authorities, another important contextual element. A huge policy shift, PPG3. Some authorities, I think it is fair to say have been and, in some cases, still are playing catch up with that major policy shift and it seems to me with my experience it is generally the officers that are getting the catch up quicker than the members and often it is the planners that are playing that game quicker than the highway engineers. I know Alan is going to touch upon that in his paper.

Since PPG3 was introduced, the tension between adherence to the old plans and the old standards and the introduction of the new guidance in PPG3, but I have to say that in my experience the tension is weakening. Some people say it is national policy and is it really that big a policy change? Has it made that much of a difference? Is this being over-played? Let us just have a look at what national policy for housing which local authorities had to implement on the ground was in the period up to March 2000, only two and a half years ago.

The guidance was that it would rarely be justifiable for local planning authorities to “impose controls over detailed design” and “that the functional requirements of housing layouts are, for the most part, a matter for the marketing judgment of developers in the light of customer requirements”. That was national policy on design and density up to March 2000. The policy now: “design and layout must be informed by the wider context of the townscape, of landscape, of building traditions, of materials. Applicants should demonstrate how they have taken account of the need for good layout and design”: They must demonstrate that: “Local planning authorities should reject what they consider to be poor design.” Then the guidance, the theme of the day, that authorities should “avoid developments of less than 30 dwellings per hectare on average and encourage density between 30 and 50 dwellings per hectare” and “in urban locations a density above that and parking standards should be less than 1.5 spaces per dwelling on average”.

I sometimes in my work have to remind clients of what PPG3 does not say. It does not say that if you produce a high density scheme, complying with PPG3 that will help you justify compromising environmental quality: Or that a high density scheme will overcome the requirements to demonstrate good design: Or that a high density urban project will justify developing on urban green spaces. PPG3 is quite clear that it does not.

If you have a well-designed high density scheme with the right amount of parking, you can develop in green belt or in unsustainable locations and PPG3 does not say that the guidance on density, design and parking is less relevant on

The Road Ahead, Velux training centre, 4 December 2002

brownfield sites than it is on greenfield sites. It is a brownfield agenda, but not at the expense of the guidance and standards within the document.

A half hour internet search of the "Guardian" website, I found an article by Jonathan Glancey, about his concern over a flow of schlock pomo style apartment blocks, conspicuously ugly, cloned from computer-generated DNA. It went on to say that they were more appropriate in downtown Bucharest and had no place on a British street.

Another article, "Only 37% of people think that UK house builders build well-designed homes." What a startling statistic.

An article by Barry Munday, the chairman of PRP Architects, to quote from there, "Designing at higher density means more skill, more imagination and greater awareness." It is harder, basically.

So I thought, "When I read those kinds of quotes just from a half hour search of a website, it tells me that if we are going for this high density agenda we have to be very careful that we do not make the mistakes of the sixties. We have to be aware of the potential backlash." But, in the very same Jonathan Glancey article, an appraisal of the Coin Street scheme on the South Bank of London described it as "much liked versions of traditional homes". So high density can be done with good design and it can embrace customers' requirements and create environments that people do want to live in and that will last. That, of course, is the challenge.

Go through some appeal decisions and have these questions in mind as to go through them. What is a parking space? Can no parking schemes be justified at appeal? Can schemes with higher parking provision be justified, higher than the standard? Can high density compliance overcome design objections? Can really high quality design overcome concerns over breach of density guidance?

What you should do as an industry when you feel refusals are not being justified against PPG3 guidance. How important are other policy considerations, perhaps even unrelated to PPG3? Does a refusal of an appeal necessarily preclude a site coming forward later? Can the Deputy Prime Minister take a different view from the Inspectorate in respect of call-ins and recovered appeals?

I will then try and wake you all up to draw some conclusions

The Road Ahead, Velux training centre, 4 December 2002

from that appeals analysis.

What is a parking space? It is a fairly straightforward question, is it not? It is an important one, though, because when we are calculating whether we comply with the guidance we need to know how many spaces we have got in the scheme. July 2001 appeal decision in Ashbourne. The inspector said, "A garage requires an access." That is common sense. Garages are widely used for domestic purposes. We put stuff in garages now rather than cars and, as you cannot get into a garage if there is a car on the drive, a garage and a drive together is one parking space. That is the basis of lots of planning consultants throughout the land when advising their clients.

September 2002, a call-in decision in Derwentside, the inspector considers that decision in Ashbourne and says, "That is a view from which I respectfully dissent." It is a call-in decision, the Secretary of State endorses the inspector's views on parking. That window we had for a year has gone. A parking space is a drive, a garage and off-street visitor spaces. That is three spaces there within a layout. That has now been clarified.

Can you justify zero parking schemes in high density urban schemes? A decision of September 2002, Southwark, refused, "There is no parking proposed. Council concerned about fly parking and on-street parking." The applicants went to appeal and they said, "We are not going to let residents in this scheme have parking permits. There is real incentive there to minimise car usage. We are going to put £60,000 into a council parking scheme and we are going to restrict occupation to students and National Health Service key workers". Appeal allowed. So, yes, you can justify no parking schemes if you are in an accessible urban location, the scheme is fully justified and the appropriate safeguards to protect against unacceptable on-street parking are put in place.

A bit more difficult. Can you justify schemes where you are putting in more parking than the 1.5 spaces standard? Medway decision 2001. A site with a previous planning permission for housing. There is a fall-back there which is normally important to inspectors: the density is okay, the parking is higher than PPG3, dismissed. Parking was one of the reasons.

Back to that Derwent decision. There were 2.2 spaces per dwelling in that layout. It is a call-in, so you get the inspector's report first and then it goes to the Secretary of State. The inspector said, "That's fine. I accept 2.2 spaces per dwelling and I accept that breach." That is with his revised calculation. "Because I think this scheme achieves urban regeneration by attracting higher income households into a town which is

The Road Ahead, Velux training centre, 4 December 2002

currently suffering from out-migration and socio-economic deprivation. Those higher income households will inevitably have a higher level of car ownership. I like the design of the scheme. I do not want to see it diluted by sporadic on-site parking, so I will accept that breach of standards and I will recommend that approval be granted." The Secretary of State took that inspector's report and said, "No, I am refusing permission because it is over the PPG3 standard on parking. Never mind regeneration."

So if you go for higher levels of parking than PPG3 it is difficult. It is possible if you have got some over-riding benefits in the public interest, but it becomes more difficult if there is Secretary of State involvement via a recovered appeal or a call-in.

I will get this easy one out of the way quickly. Can high density overcome design objections? Chelmsford 2001: 20 units, a 0.3 hectare site. It is an allocated site. It has got an outline permission. The density is fine. The design is considered by the inspector to be unacceptably utilitarian, poor quality over-development, creating unacceptable living conditions. Appeal dismissed.

Ealing, June 2000. 45 flats and houses on a former TA building. High density is not a determining factor. Notes that there is no harm to surrounding living conditions as a result of the high density, but it is a large, bulky, high building and the boundary treatments do not reflect the neighbours. Appeal dismissed.

Evesham, 59 dwellings on a former factory. Unsightly, prominent brownfield site, very PPG3 friendly. Important riverside position. The design, the density is fine. The design is totally alien to the historic form of the settlement. It is not designed with imagination. Appeal dismissed.

So PPG3 is not a density free-for-all. Local authorities will increasingly reject poor designs. They are doing so. They will be backed up by the inspectorate and the Secretary of State. It is a design and density agenda.

Can really high quality design overcome a breach of PPG3 guidance on density? Turn it the other way round: Redditch 2001, 23 units - it was just under 30 dwellings per hectare. The inspector says, "We don't need an exact match of housing densities. Suburban standards" - there was a breach of spacing standards - "Suburban standards could stand in the way of good design. The design is intrinsically attractive, demonstrates imaginative thinking". Appeal allowed.

The Road Ahead, Velux training centre, 4 December 2002

Kensington and Chelsea, a very recent decision, re-development of Kings College. This is a call-in. The Secretary of State has pulled this application in to determine it himself. Fourteen very large apartments. The density is just above 30 dwellings per hectare, but well below 50 in the centre of London. It is not a density that the Secretary of State wants to support, but the scheme brings real benefits to the conservation area. The Secretary of State accepts there is a need and benefit from creating a garden area for residents within the site. The Deputy Prime Minister accepts that the site constraints and the conservation benefits justify a lower density. Permission granted.

So if your design is high quality and it is justified against the site characteristics, the site constraints and the surroundings and if you have presented evidence that you cannot deliver a higher density scheme without compromising those things, that factor - and potentially others - creates over-riding benefits in the public interest, yes, it is possible to secure a breach of PPG3 density guidance driven from the high quality of design proposed.

What should you do when a local authority in your view refuses permission but does not justify those reasons against PPG3. Going to the decision in Elmbridge, brownfield site housing on a builder's yard. The scheme goes in, the council refuse it. The committee report makes clear they do not want to see a terraced scheme in quite a low density area, they want garages rather than car parks, they want bigger gardens. They want lower density. It is actually too high at 30 dwellings per hectare. The council do not want a PPG3 scheme on that site. Permission refused; appeal allowed.

Southampton, a recent decision. A high density suburban scheme, 84 houses and flats, very sustainable accessible location, density is within the PPG3 range. It is right at the upper end but it is within the range. The inspector notes there are similar developments in terms of scale and massing in the locality, that there are appropriate measures being put forward by the appellant to protect trees where possible and replace any trees that are lost, that the council's own spacing standards are met. Permission is refused by the local authority on the grounds of over-development, but the appeal is allowed. Demonstrably complying with PPG3.

It seems to me if you have a scheme in which you are confident, it is a good design, the density complies with PPG3 guidance you should go to appeal with a degree of confidence. Compliance with PPG3 is important material consideration at appeal and inspectors and the Secretary of State will set that against pre-PPG3 policy, pre-PPG3 standards.

The Road Ahead, Velux training centre, 4 December 2002

A decision in South Gloucestershire [1]. How important are other policy considerations? Housing on this site, July 2002, a called-in decision, brownfield, sustainable, unsightly site, but it is in the greenbelt. A key policy requirement for the greenbelt is to protect openness so the appellant's view is, "I'm going for a lower density scheme in order to protect openness in accordance with PPG3 guidance." The low density conflicts with PPG3. Permission is refused. The main reason that permission is refused, in my reading of the scheme, is that the Secretary of State was not convinced that you could not protect openness with a scheme that does comply with PPG3 density requirements.

If you are running an argument for a lower density scheme you have to test the benefits of a higher density scheme. You cannot overlook other policy considerations such as greenbelt. Warwick, 2001, 42 flats in the grounds of three villas, a suburban site including the retention and re-use of the three villas. It is in a conservation area and there is already a development brief published which seeks to secure the retention and re-use of those villas. That is an important policy consideration which helps justify the appeal.



[1]

The Road Ahead, Velux training centre, 4 December 2002

So whenever we are putting forward a scheme for housing it is absolutely crucial that we weigh all relevant policies against each other. It is not just about PPG3. Where do you stand in terms of the housing need? Is it in the greenbelt or some other development constraint location? If it is on an employment site, what is the local employment's land supply like? How does it perform against heritage policies? There is a whole range of other policy considerations, all of which need to be considered before you can take a balanced view on whether you are likely to get permission or succeed at appeal.

Self-evidently, yes, the Deputy Prime Minister can take a different view from inspectors. I have not seen the statistics, but it seems as though he increasingly does. If the Secretary of State disagrees with the inspector it is not likely that he is going to weaken the guidance in PPG3, it is much more likely that he is going to disagree with an inspector on the grounds that the guidance in PPG3 has not been enforced strictly enough, as we have seen in the Derwent decision I mentioned earlier, where the inspector's acceptance of a breach of PPG3 on parking for other reasons relating to urban regeneration was not accepted by the Secretary of State.

You often get a situation where clients say, "We mustn't get a refusal. It is absolutely vital. Once this site gets a refusal, we will never be able to develop it in the future." That is not necessarily the case. It generally depends on the reason for refusal. One scheme I am aware of, August 2001, a re-development of a derelict Victorian villa into 18 flats: knock it down, put 18 flats back. The council said, "It's over-development, application refused." The inspector agreed. Later, permission was granted by the authority for eleven flats. The inspector's decision reinforced the principle of building on the site and gave guidance of what would be acceptable in the future.

A similar case in Kerrier. 42 dwellings, a 2.2 hectare site. Poor design (according to the inspector, not me), conflict with density, appeal dismissed, but the inspector made it clear in his decision letter that the scheme might have been acceptable if there had been a higher quality of design and a higher density put forward.

The Road Ahead, Velux training centre, 4 December 2002

Newcastle-upon-Tyne, a scheme there [2]. Eighteen houses, a suburban back garden, permission refused, over-development. Again the inspector in dismissing the appeal clearly concluded that a lower density scheme would be acceptable.

So as long as the reasons for dismissal relate to density and design it might be that an appeal decision reinforces the confidence you have that you can get some development on the site in the future, but what you cannot change are the locational factors of the site. If it is thrown out for employment land supply reasons you cannot change that by altering the density or the design. But often if the reasons relate to those two factors the door is open to come back with a compliant scheme.

What conclusions can be drawn? Before I start drawing conclusions, I want to talk about this decision. St. Helens, May 2001, 19 dwellings per hectare, well below 30, the PPG3 standard. The inspector in his decision letter says the layout is repetitive. It was essentially a bungalow scheme and he describes the bungalows as “bland and lacking”. There is a loss of trees proposed on the site, there is a loss of wild habitats on the site. The inspector grants the appeal, predominantly relating to the fact that it is quite unsightly at the moment.

So you can do all the appeals analyses that you like, but each case is different. The inspectors are often as individual as the cases. That said, I do think from my analysis of the work we do day-to-day that patterns are emerging now that PPG3 is more than two and a half years old. A garage is a parking space. You can justify zero parking schemes with the right location and safeguards. It is very difficult to justify higher levels of parking above PPG3. Exceptional design quality and site specific constraints can help you justify a more flexible approach to the density guidance of PPG3. The inspectorate and the DPM will support you if you have PPG3 on your side. They will regard that



[2]

The Road Ahead, Velux training centre, 4 December 2002

as an important material consideration. You must take account of all policy considerations, not just about PPG3. Focus on the Deputy Prime Minister's views and the inspectorate if you are a call-in or a recovered appeal. The appeal decision may not be the end of the road, depending on the reasons.

Just a couple of slides of final thoughts. Go back to the Barry Munday quote. Clearly high density good design is harder, but I am sure everyone in this room would agree that it is now necessary: It is necessary to secure permission. As a wave of good quality, well designed schemes come forward - and we are going to have some of them described to us this afternoon - it is going to be increasingly important to win customers in the future.

We have a very strong residential market at the moment. Some developers are being brave, brave enough to do genuinely mixed use schemes, delivering a mix of uses within individual buildings, integrating different uses within a site. My experience is that those developers that are being brave in doing that are reaping rewards, reaping rewards in terms of benefitting from the strong market. It is my experience that a mixed use scheme can unlock planning obstacles. If your site is allocated for employment and you are proposing a mix of employment and housing uses and the employment uses are actually much better quality than the ones on the site at the moment, that can give you a smoother ride in planning terms, in my experience.

The mantra you have heard at who knows how many conferences since PPG3 was launched, "Avoid standard products where possible". I would say avoid standard elevational treatment, at least.

Finally, think about reserved matters. You might have an outline permission in the bag, but you still have to comply with the density design guidance of PPG3 when you are submitting your reserved matters. Even if the outline permission specifies a number of dwellings, you have to demonstrate that it is a high quality scheme.

As density increases, so does the need for management. It may be more an issue for local authorities and housing associations, but high density schemes need more management. I think customers increasingly want the confidence that that scheme will be managed and the quality that they are buying into on day one will still be there in ten years' time. If we see some earlier high density schemes showing signs of neglect and poor maintenance, that could have an effect on customers wishing to buy in on high density schemes. Do not take the short-term view that, "Once we get out, we're away." Put the effort into

The Road Ahead, Velux training centre, 4 December 2002

management and I think you are likely to create more customer confidence.

There are different issues in different regions. In the south-east, that is where the housing needs are most pressing. That is where meeting housing need is likely to be a significant material consideration in your favour.

To sign off, the theme of the paper. If you are proposing a breach of PPG3 standards, demonstrate why PPG3 cannot be complied with and demonstrate over-riding benefits that justify your breach in the public interest. Better living conditions for the residents of your scheme is not a benefit in the public interest. Remember the ODPM. They are not here today, but I think they would tell you that that policy is the policy to which they are very committed, and they regard PPG3 as there to be enforced.

We have seen that happening already after the first two and a half years of its genesis. I think we can only expect to see that enforcement increasing over the next three to five years. Thank you very much.