Regeneration Manifesto

Market realities

Giant strides have been made in recent years in regenerating many of our towns and cities. However, the model by which this has been achieved, heavily underpinned by rising land values and the easy availability of credit, has now been swept away (at least in the medium term) by an economic recession and financial crisis that have prompted the severest downturn in both the house building and commercial property sectors for decades.

As debt markets for regeneration shut down and private sector regeneration grinds to a halt, schemes are being put on hold or scrapped altogether. Much planned regeneration is no longer viable. This means that the progress made in recent years in bringing new life to our major urban centres is in danger of being thrown abruptly into reverse.

Market solutions

Against this background, there is a need for new policies both to sustain the regeneration sector in the current crisis and pave the way for recovery. New, flexible models for regeneration are required. In developing such models, the industry must draw on the lessons of past successes and failures to produce a sustainable structure for regeneration. Whilst the focus of Government policy is very much on boosting housing supply, we would emphasise that successful regeneration requires a much wider approach than a narrow focus on housing numbers.

Although times are challenging, we must not be tempted to lower our standards. High quality development that improves the built environment and fosters mixed and balanced communities remains the right policy objective.

This manifesto sets out five broad policy areas which need reform, each accompanied by specific recommendations to support and boost regeneration. There are, of course, several other policy areas where the Government could make a difference. In particular, improving the efficiency of the planning system would help to speed up the delivery of regeneration schemes.

The BPF's Planning Manifesto, issued last year, makes a series of recommendations about how this could be achieved. We urge the Government to implement the reforms highlighted in our Planning Manifesto – primarily through the Killian Pretty Review work – which taken in concert with the recommendations outlined in this document, would help to kick start regeneration in the UK and sustain the renaissance of our towns and cities.

Francis Salway
President

Liz Peace
Chief Executive

Ken Dytor
Chair, Regeneration and Development Committee

Five recommendations to sustain regeneration and pave the way for recovery:

1. Revisit the application of the public procurement laws on regeneration and development schemes

2. Enable the creation of UK tax increment financing districts (TIFs) in the UK

3. Use public sector powers to support regeneration

4. Use public sector equity and guarantees to attract private finance

5. Promote and harness the role of the private rented housing sector

Our recommendations

1. Revisit the application of the public procurement laws on regeneration and development schemes

We recommend:

- action to reduce the inefficiency and cost of the procurement process
- the Government publish guidance to combat the misinterpretation of the Roanne case in the UK which is having such a widespread and damaging impact on regeneration throughout the country.

Regeneration of large scale projects is a costly and complex process. It is often difficult for the public sector to find private sector partners willing to participate in regeneration schemes, a problem that is being exacerbated by current economic conditions. With the Government pinning its hopes on major infrastructure and public sector projects to lift the country out of recession it is essential that barriers to private sector participation are removed. Unfortunately the increasingly costly and often disproportionate procurement requirements that currently exist continue to present a formidable hurdle. In short, higher costs mean fewer bids.

Many regeneration schemes are being delayed or scrapped because of the over-zealous interpretation of EU procurement rules. The competitive dialogue system introduced in 2007 is a prime example. Many risk-averse authorities feel compelled to go down this route when it is simply neither appropriate nor necessary and despite the fact that they frequently lack both the resources and the understanding to do it effectively. Moreover, the cost to the private sector of participating is such as to make their participation unviable. With mounting evidence of schemes being delayed or cancelled there is a crucial need for the procurement process to become more proportionate and less wasteful.

Urgent action is needed, too, to combat the highly damaging effect that the interpretation of a decision by the European Court of Justice (*Jean Auroux and Others v Commune de Roanne*) is having on regeneration and development schemes in the UK.

Before Roanne, it had been generally understood that the normal EU Procurement requirements do not apply to public/private development partnerships or development regulated by town planning law. However the Roanne case has cast doubt on whether development agreements entered into by the public sector without a formal financial tendering process are lawful.

Whilst Roanne is a single case relating to specific circumstances, it has made many local authorities so nervous about procurement procedures for development agreements that they are insisting on the use of tendering processes in circumstances where this is both unnecessary and unrealistic. This imposes a severe cost and time burden on developers and, particularly in the current climate, deters them from participating in regeneration schemes.

The situation shows no sign of improving and urgent action is now needed to provide the clarity and certainty that both the local authority and private sector are seeking. This should involve the publication of authoritative guidance on which local authorities, in particular, would be prepared to rely. The Government is the only body with the requisite authority and credibility to do this and we would urge them to show the leadership that is so badly needed.

2. Enable the creation of tax increment financing districts in the UK

We recommend:

- the Government should introduce tax increment financing (TIF) pilots in the UK, using a variety of TIF models to see which ones work most successfully
- TIF should only be used for regeneration schemes that would otherwise be unviable.

Funding the infrastructure needed to support major regeneration projects has been a longstanding concern, but is even more of a hurdle in the current economic climate. We believe that an American model for funding regeneration, tax increment financing, could help to plug some of this gap in the UK.

The BPF, along with other organisations, has been leading the way in calling for the TIF concept to be piloted in the UK. We are therefore pleased to note that the 2009 Budget gave the green light for the Government to "assess the scope for accelerating development by allowing investment in infrastructure to be financed from the increased property tax base that could be enabled by the existence of improved infrastructure" - essentially a TIF format.

TIF works on the principle that the supply of new or improved infrastructure usually leads both to new development and to an increase in the value of surrounding property, both of which serve to increase the level of property taxation in the area. Within a designated TIF district, this anticipated increased taxation (the 'tax increment') is captured and used to fund the infrastructure that has been provided. Using increased tax revenues to finance the debt issued to pay for the project can take up to 20-25 years, but in many cases the timeframe is much shorter.

The key criteria for allowing the creation of a TIF are that it supports a project that promotes regeneration and that the project would be unviable without the use of TIF.

For local authorities, the advantage of TIF is that it can raise money for redevelopment without having to deplete general revenues or accept funding from central government with strings attached; the Government will enjoy higher property tax revenues when the bonds are retired. Developers see it as a way for the local authority to make a commitment to redevelopment through public improvements or through write down of the cost of land; they have some of their infrastructure needs paid for, which in some circumstances could be the equivalent of a tax reduction. Private investors have a tax exempt bond that generates tax free returns, while residents and homeowners may see it as a way of funding redevelopment from taxes collected in the redevelopment district itself, without raising their taxes. Furthermore, property owners in the district may see their property values rise after the development occurs.

The rapid spread of the TIF approach in the US demonstrates that it is widely seen as an effective tool with a proven track record. Overall, TIF schemes in the US have generated billions of dollars of investment – creating more jobs, more affordable housing and better public spaces. The BPF will seek to work closely with the Government and other organisations to explore the best way to proceed with the TIF approach in the UK.

3. Use public sector powers to support regeneration

We recommend:

- greater coordination of large capital spending programmes to ensure their regenerative benefits are fully utilised, including leveraging private sector investment
- a more proactive approach by councils and public bodies to facilitating and, where feasible, 'de-risking' regeneration schemes.

Public sector bodies have the ability to ease the path for developers involved in regeneration projects in all sorts of ways. Much greater use could be made of public sector powers as outlined below.

Maximising the regenerative impact of Government building programmes

With Government spending likely to be severely constrained for the foreseeable future, there is an onus on all public bodies to maximise the benefit of the substantial investment that will continue to be made. The Government has many multi-billion pound public building programmes that could have much greater regenerative impacts within communities than they do now. The co-location of several community facilities offers particular opportunities for creating added value. In the past, public sector projects have been undertaken in silos. For example, a school might be built next door to a redundant hospital or land owned by a housing association. Schools offer particular advantages as 'regenerators' and the Building Schools for the Future programme, for instance, should seek to act as a focal point for regeneration within an area.

We believe that private developers should be able to harness Government funds for major infrastructure projects, such as schools and hospitals. They would do this by adding private sector resources and finance to create regeneration projects, where appropriate on a local authority-wide basis, that can deliver health and education facilities, homes, offices and leisure facilities. This is currently a big missed opportunity; both central and local government should be looking to unlock the potential of public assets and the surrounding land by using real estate backed finance.

De-risking schemes: maximising the potential of sites

Greater emphasis must be placed on councils and public sector bodies 'de-risking' regeneration projects by dealing with major factors that may be in their control. They could go even further in creating 'oven ready' sites by, for instance, cleaning up contaminated land and supplying it with basic services Below we explain some of the powers and actions that the public sector could do to de-risk regeneration sites.

Disposal of public land

The public sector often gives priority to the immediate financial return it can generate from the disposal of land assets rather than thinking about how such assets can be used more constructively to achieve wider regeneration objectives. Local authorities are able to make disposals at less than the open market value where such disposals will improve the economic, social or environmental wellbeing of its area. This power could significantly benefit regeneration but is only being applied in a small number of cases, often because of a lack of awareness that this power exists or inexperience in applying it.

Central Government should give more active encouragement to local authorities to use this power, and should consider issuing guidance that draws on the experience of those who have already used such powers effectively. The various arms of central Government should explore the potential for adopting a similar land value discounting mechanism to the Local Authority General Consent in respect of their own land.

Site assembly

Site assembly is an integral part of most regeneration schemes, whether for securing site access or achieving critical mass. It often involves significant time, cost and associated risk, particularly where ownership is heavily fragmented. The use or threat of compulsory purchase orders (CPOs) can sometimes be the only way to assemble sites that may hold the key to the regeneration of an area. Both public bodies and local authorities have CPO powers; few have any recent experience of using them as the use of CPO powers has been all but abandoned in recent years. As a result, most authorities lack the expertise to deal with CPO procedures. One means of overcoming this problem would be the creation of regional centres of CPO expertise on which local authorities could draw.

A further deterrent to the use of CPO powers by local authorities is the risk of incurring financial liabilities. However, developers are often prepared to help overcome this problem through a 'back-to-back' agreement under which they agree to take on financial liabilities for a CPO in return for an assurance that the council has the skills, capacity and political will to see the CPO through to completion. The wider use of such arrangements should be encouraged.

We are also aware of some anomalies that exist with regard to the use of CPO powers as they relate to the Crown and other public bodies, such as utility providers. We would like to see a level playing field for all interests so that Government buildings, for example, would not be entitled to immunity from acquisition via CPO and that any compensation arising would be no more or less than that paid to any other owner or occupier.

Masterplanning

Masterplanning for specific regeneration areas can bring positive benefits to a particular location. A masterplan sets out the vision for the area, addressing the overall 'big picture'. It can address issues such as the location of social, economic, cultural and residential activity and where to locate necessary infrastructure and public transport. If done in consultation with the developer, community and other relevant interest groups, a masterplan can bring a shared sense of purpose to a project. Councils should take proactive steps to masterplan for significant regeneration schemes in their locality, and where relevant, encourage developers to be closely involved in this process to ensure that such plans are viable.

Provision of infrastructure

As discussed in relation to TIFS, the provision of infrastructure is often the key to unlocking difficult regeneration schemes. However, the ability of developers to fund such infrastructure has been drastically reduced in the light of the recession. Put simply, developers will not be able to fund infrastructure to the extent that they have been doing over the past 10-15 years. It is clear that if regeneration schemes are going to progress, local authorities will have to adopt a flexible approach to the negotiation of section 106 agreements. The public sector will have to acknowledge this and, where possible, deliver the infrastructure for regeneration schemes in order to attract private sector investment.

Decontamination of land

Regeneration schemes on brownfield land often require extensive decontamination to make the site fit for purpose. The cost of decontamination can be prohibitive for the private sector, which means the site will fall into further neglect. Councils could achieve a swifter regeneration of a site by undertaking the remediation work themselves, or assisting the developer in this process. More generally, the Government could offer more extensive and developer friendly tax incentives for the development of brownfield land, beyond those consulted on in 2007.

Stamp duty land tax (SDLT)

We have not made any specific recommendations in respect of the stamp duty land tax (SDLT) regime as it applies to regeneration schemes. However, we believe that the SDLT treatment of land transactions between the public and private sectors that are necessary to enable a regeneration scheme to take place should be clarified in certain places, as, in some cases, the drafting of the current rules can give rise to uncertainty and/or risk of duplication of SDLT charges for developers. We are in the process of exploring this subject with our members, with a view to making representations to appropriate officials in due course.

4. Expand equity sharing and public sector guarantees

We recommend that the Government should:

- review the effectiveness of the current range of public/private joint venture vehicles; those that are deemed to be achieving the best results should be highlighted in best practice advice
- consider creating a central team within the Homes and Communities Agency (HCA), similar to the Advisory Team for Large Applications (ATLAS), to support local authorities in the establishment of joint venture vehicles
- encourage local authorities to use their considerable asset bases to support stalled development projects.

Traditionally, when developments have been procured by the public sector, they have been procured by means of development agreements, possibly combined with an overage arrangement. These agreements have historically represented a relatively low risk means of procuring development services, and have also capped the potential rewards to the public sector. In today's climate, we need to look at a broader range of mechanisms for delivering development, through which the risks and rewards of developments are clearly identified and more appropriately shared between the public and the private sector.

Joint ventures between the public and the private sector are going to become increasingly important as a means of achieving a better spread of risk/reward. They can take many forms. At one end of the spectrum, local authorities can contribute their land at little or no cost, and then share in the longer term upside as the development is delivered and land values recover. At the other end, there are good resource led examples where land is transferred into a joint venture, the developer manages the planning process and develops a number of the consented sites, with the remaining consented sites sold on to other parties.

In the current economic climate, Government, local authorities and developers should be looking at all such options for maintaining development pipelines, and using publicly owned assets, covenants and balance sheets to leverage in additional private sector funding for regeneration.

JESSICA finance

We would particularly like the Government to promote much wider use of JESSICA (Joint European Support for Sustainable Investment in City Areas) finance, possibly in combination with locally established regional infrastructure funds. JESSICA is an initiative, promoted by the European Commission, under which managing authorities (in the UK, this role has been delegated to the RDAs) can opt to receive a proportion of their ERDF allocations to invest in a revolving locally established urban development fund, as opposed to using them for one-off grant investment.

In establishing the urban development funds, the JESSICA funding can be used as equity, loans and/or guarantees, and must be supplemented by matched funding, which can be contributed by way of cash or land assets. Whilst there are always regeneration projects that will only be viable if supported by grant finance, the 'evergreen' nature of this investment is a highly efficient means of investing in enabling infrastructure in a sustainable manner.

5. Promote and harness the role of the private rented sector

We recommend that the Government should:

- change the way in which SDLT is charged in transactions involving bulk purchases of residential property
- remove the technical and commercial barriers holding back the emergence of residential REITs.

Professor Michael Parkinson's report 'The Credit Crunch and Regeneration: Impact and Implications' highlights that, of all the different types of regeneration projects, residential led regeneration has been the hardest hit in the past 12 months (2008-2009). By most estimates, this year will see the lowest level of new housing completions since the post war period. We believe that the promotion of the private rented sector (PRS) can help to solve the UK's housing shortage and help kick start regeneration.

The HCA has been carefully considering how institutional investment in the PRS could be increased. We welcome this focus, which could help support housing market recovery and provide a source of long term investment and professional management in private rented housing. Any PRS investment model that is developed should be sustainable; we believe the HCA is taking the right approach to achieve this by establishing a model that focuses on securing long term investment with sufficient scale. Modelling work carried out by the BPF has shown that greater institutional investment in housing can be hindered by the profile of risk and returns. The impact of property voids in particular means that pure market renting is often less attractive than investment in commercial property, or property such as student housing.

Today's market conditions provide the best opportunity to grow institutional investment in the housing sector. We believe the Government should harness this opportunity by making the following changes to SDLT rules and encouraging the emergence of residential REITs (real estate investment trusts).

Changes to SDLT

The Government should change the way in which SDLT is charged in transactions involving bulk purchases of residential property. Currently, unconnected purchases of individual properties are taxed at the marginal rate for the price at which they are purchased (which may be 0%, 1%, 3% or 4% depending on the purchase price), but bulk purchases are taxed at the rate applicable to the aggregate price, which will almost invariably be 4%. That position represents a structural disincentive against larger scale investment in residential property. We would like to see bulk purchases of residential property taxed at the marginal rate applicable to each unit, levelling the playing field between individual purchasers and those seeking to make larger scale investments.

Residential REITs

The Government should facilitate the emergence of residential REITs, which are so far probably the greatest missed opportunity for the UK REIT sector. The value of UK residential property is between £3 trillion and £4 trillion with some 30% of this being rented, and 13% of the total being in the private rented sector. That represents a vast pool of assets in which residential REITs could invest, potentially transforming the PRS with greater institutional investment and more professional management.

With the right legal framework, it should be possible to overcome doubts about the yield from residential property. The enormous appetite of the public for exposure to residential property through direct investment is one reason for that; another is the secure, reliable and inflation proof income that residential rents can offer to insurance and pension funds. However, the REIT regime, introduced in 2007, does not readily accommodate residential property, for detailed commercial and technical reasons that we have sought to explain to

Government. Failure to make these changes in the 2009 Budget was a missed opportunity and we strongly urge the Government to reconsider its position.

Support for the SDLT measure and the encouragement of residential REITs are just two suggestions that would encourage increased investment, better management and ultimately a more professional PRS. There are other tax and regulatory changes that could be made as well, all of which were recommended in the Rugg Review of the PRS. We are keen to see the recommendations of this review implemented expeditiously.

Conclusion

In the current recession, regeneration has all but stopped in the UK. The recession will not last for ever, but the economy will need to significantly improve before investment in regeneration schemes begins to return.

We believe that the time is right for the Government to put in place measures that will encourage, and remove barriers that deter, investment in regeneration. Acting now will increase the likelihood, once the economy begins to recover, that investors will be attracted to invest in regeneration schemes. Failing to act could have a damaging long term effect on those parts of the country that desperately need the economic, social and community benefits that regeneration undoubtedly brings.

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