

TOWARDS AN UNDERSTANDING OF THE BUSINESS PERCEPTIONS OF PLANNING IN BOTSWANA

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Abstract

There have been persistent criticisms that the planning system is failing to deliver timely decisions and determine planning applications in a sound manner. There is a widespread view amongst stakeholders that the planning system is far less efficient, with the consequent delays and uncertainties seen as disincentives to investors and developers. What is the nature and extent of this problem? What is the basis of these business perceptions of planning? This issue calls into question the economic value of planning. The paper explores the importance of improving the efficiency of the planning system through reducing unnecessary complexity in policy, plan-making and development control. The paper is premised on the supposition that choices planners make are fundamentally about questions of right and wrong, and good and bad. But the ill-defined quality of the problems which confront planners and the multiple interests affected lead to tensions and dilemmas as to the most appropriate choice of actions or values to endorse. Moreover, obligations and actions that are required are likely to be influenced by changing contextual circumstances. The paper therefore hopes to contribute to the debate of the planning system ability to deliver outcomes with regard to economic growth and productivity.

Keywords: *Planning System, Plan-making, Development Control, Business Perceptions*

INTRODUCTION

The nature of planning as a profession, discipline and indeed as a subject matter is changing and evolving. Planning is not just about land use, but a broader spatial approach with wide ranging stakeholders and community engagement (Barker, 2006). Planning is about outcomes, not just processes. Planning is the deployment of various policy instruments intended to shape, regulate and stimulate the behaviour of ‘market actors’, and to build their capacity to do so (Adams and Watkins, 2014). That notwithstanding, planning is still considered to be the ‘rational’ tool that capitalist modern societies use to organise space, distribute resources and balance different interests for the welfare of a given society (Fenster and Yacobi, 2005). This modernist planning or classic planning tradition, is characterized by namely rationality; comprehensiveness; scientific methodology; faith in State-directed future; and faith in planners’ ability to know what is good for people generally or public interest (Sandercock, 2003). That planning as a modern discipline is based on the assumption that its rationality enables ‘solving’ problems and transforming space.

This classic planning tradition, which is the rational comprehensive planning model, has been challenged and criticised as insensitive to the complexities of social change, and meanings attributed to space (Sandercock, 2003). It has been challenged by the involvement of ‘others’ who advocate needs and desires based on multiple layers of knowledge. Given that there are different expressions of knowledge that are exposed in the planning process, Fenster and Yacobi (2005) argue that this classic planning epistemology and the production of space brings attention to the necessity of understanding daily practices of the users, as part of the planning knowledge required for formulating plans which will meet people’s needs and aspirations. For instance, planners perceive an area from a modernist perspective, using professional knowledge and language to analyze and emphasize components which interest planners such as distance

and proximity of an area to other economic activities in the urban setting, hence highlighting practical functions and spatial relations (ibid.). On the other hand the perspectives of the residents of the area will reflect a distinct aspect of knowledge of daily practices and experiences, more emotional and intimate, expressed in everyday language rather than in a professional language. How these different perceptions are constructed by these main actors functioning in the urban setting forms the basis of discussion in this paper. As argued by the Cambridge Centre for Housing and Planning Research (2014) there remains a perception that planning is a major constraint on development and on the confidence of developers to put in applications that will both meet a Local Authority's planning requirements and achieve a speedy outcome. The main aim of the paper is to examine the 'pinch' points in the planning process, using actual case studies to trace the perceptions from the developers' decision to put forward an application through to the start of development.

The paper firstly presents the manifestation of the developers perceptions towards planning, focusing on the extent to which planning is criticized and attacked for failing to realize its developmental objectives. Then the next section forms the conceptual framework, to make a link between planning and economic growth and elevate the discussion beyond existing perceptions. This will be followed by a discussion which bridges the aforementioned gap and brings to bear the different perspectives that reflect the sometimes contradictory types of knowledge of the same setting onto one space through case studies from Botswana. The last section draws out conclusions and further areas of consideration on the issue.

MANIFESTATION OF THE PROBLEM

Adams and Watkins (2014) point out that planning is often seen by users as a seemingly bureaucratic control mechanism that permits or refuses permission for development, rather than being society's essential service/tool that makes successful and enjoyable places, providing a high quality of life, economic growth and environmental protection. They indicate that this is often highlighted by development plans that set out a vision, policies and proposals for providing services, facilities and infrastructure but these plans are not always fully understood or accessible to communities. That people do not often engage in the planning process, hence there is a lack of faith in the current system of planning. Barker (2006) argues that there are tensions between a system where decisions on land use and land development are made according to plans of up to 24 years duration, and the reality of rapid economic and social change driven by increasing demand for commercial land, while businesses have to respond with increasing speed to globalization and technological changes in the market. Critics say planning is too restrictive and too costly. Commentators claim planning drives up the cost of land and property, adding costs to developments. Cheshire *et al*, (2012) argue that developers incur costs such as interest payments being made, and lost business opportunities, as a result of planning and while planners deliberate.

They lament that the planning application process is too cumbersome. A Confederation of British Industry (CBI) Study conducted in 2012 in United Kingdom indicated that 97% of businesses viewed planning as a barrier to infrastructure delivery (Royal Town Planning Institute [RTPI], 2014). Similarly a planning survey conducted in 2013 by GL Hearn Ltd showed that 70% of applicants were dissatisfied with how long applications take to reach a decision (ibid). Therefore a perception of planning standing in the way of growth prevails. However, some people's views may be based entirely on existing perceptions of planning where they may have had a bad experience with a particular planning officer's approach

(Hubbard, 2014). As noted by Hubbard (2014) the experience of seeking planning permission can vary from one local authority to another, and sometimes vary depending upon the planner assigned to the case within the same local authority. But the majority of concerns expressed by business around the planning system relate to day-to-day operational issues such as delays, direct costs to firms and uncertainty (Barker, 2006). Although there has been no definitive and comprehensive study of the direct costs to business from the planning application, in addition to cost of management and other staff time involved in planning, costs include planning fees and related costs; and legal fees as well as consultant costs – businesses and firms pay consultants for advice in areas such as planning procedure or promoting planning applications. Consultants range from sole practitioners or small partnerships to large, professional practices including architects, economists, engineers, surveyors and other specialists.

Some politicians have been critical of the planning system by saying it is too slow, overly bureaucratic and standing in the way of economic development (RTPI, 2014). Some even argue the mere possibility of a refused planning application adds uncertainty. It is noted that a number of complications result in the planning procedure appearing less transparent and more complex than it might otherwise be, with the result that both applicants and others affected by a proposed development often find it hard to understand the basis on which decisions are taken. Hence there are persistent criticisms that the planning system has failed to deliver timely decision-making. For many businesses, the lack of certainty about how long the application is going to take can cause problems as the actual time delay. Barker (2006) argues that timely decision-making in planning helps investment as it (i) allows firms/businesses to respond to business opportunities by transferring land or building from a less to a more productive use, (ii) reduces the cost of capital, as the longer a planning decision takes the greater the cost of capital tied up in loans relating to the development. Barker (2006) further argues that there may also be structural issues at play, that local planning authorities are monopoly providers, so poor service cannot result in applicants taking their applications elsewhere.

Henneberry *et al* (2005) also argue that investment can be hindered by refusing applications. They argue that even a relatively low refusal rate suggests a significant loss of investment because it represents business opportunities turned down, and compounded over several years this incremental effect is more significant in terms of capital stock. They point out that any rise in the proportion of refusals may be a cause of concern. A refused application often essentially represents an infinite delay on cost (*ibid*). In a study they conducted they found that a 10% decrease in the proportions of approval decisions results in a decrease in local economic activity of 1.6%. It is also unclear what proportion of cases or applications turned down prevented disinvestment by others, or are actually resubmitted. So refusing applications has the similar notions as discouraging applications. It is not yet known the extent to which planning applications are not coming forward due to their perceived small chances of success – the scale of this impact is therefore difficult to determine (*ibid*).

There are also concerns about the length and complexity of plans and plan-making. According to Barker (2006) the primary aim of a plan-led system is to instil greater certainty in land use regulation so that businesses and developers have a sense of the conditions/requirements to get permission to develop. But the length, complexity and out-of-date nature of the plans compromise these objectives. Henneberry *et al* (2005) observe that where a local plan makes clear that a certain kind of proposal is unlikely to gain planning permission, it is reasonable to suppose that firms will often not make an application, or even enter into a pre-application discussion with the local planning authority. Given that statutory plans often give indications

of a place's ambitions, it is worrisome that they are more often than not inaccessible to the investors, leading to local planning authorities been inundated with applications which are 'non-starters'.

As noted by Barker (2006) there is pressure for the public service delivery to minimise costs to businesses associated with uncertainty and delays because it would appear the window of commercial opportunity for business tends to be rapidly shrinking. Businesses therefore require a value-for-money service that is timely. Planning, as a public service, is important to supporting businesses' competitiveness. A key question is whether the planning system provides the right balance between certainty for those making long-term decisions, and responsiveness for those seeking to respond to changing circumstances (ibid). To highlight the manifestation of this issue a precedence study is used, which is adopted from a Blog by Jennifer Scott.

Developers appeal against rejected housing plans in Stapleford

According to Jennifer Scott, in a blog dated August 26, 2016, a housing development plan thrown out by a local council could be back on the agenda as the company behind it has appealed the decision. Westermans Ltd submitted plans for 450 houses on Field Farm in Ilkeston Road, Stapleford, back in 2011, with phase one of the project involving 118 houses. But Broxtowe Borough Council refused the planning application in April, saying "significant and demonstrable harm" would be done to the site because of poor design. Now, the developers have written to the Secretary of State for Communities and Local Government, Sajid Javid, calling on the decision to be reversed. A statement published by the council after they turned down the application said: "Significant and demonstrable harm would be caused by the poor overall design quality of the development by reason of the appearance of the proposed buildings and the failure to create a distinctive place that responds to its context and maximises opportunities to improve the appearance of the immediate surroundings. The proposed development fails to achieve the aspirations of the council for a development of exemplar design on this site, as identified in the Broxtowe Aligned Core Strategy. There are no material considerations of sufficiently compelling weight that outweigh the clear conflict with these established planning policies."

But Westermans believes its appeal is valid. A spokeswoman from the firm told the Post: "An appeal was submitted to the Secretary of State as we disagreed with the decision made by the council. The application is now being processed by the Planning Inspectorate and as such, we would not wish to comment further at this time. "Irrespective of the outcome of the Planning Inspector's decision, we would wish to continue working with the council to deliver the much needed housing for existing and future residents of Broxtowe." Residents are fuming about the appeal after campaigning against the development for several years. Councillor Richard MacRae, who represents the area on Broxtowe Borough Council and lives in the town, said: "This is about the people round here. They are going to take a really vital green space which we use for dog walking and what do we get in return? "There has not been enough public consultation. If you look at the homes they are building at Toton, they have held public meetings, listened to the residents and worked together. Westermans hasn't and we are getting nothing back."

It will now be down to the Department for Communities and Local Government (DCLG) who will look at written statements from all parties and carry out a site inspection before coming to its final decision. A spokesman from the Planning Inspectorate said: "We can confirm an appeal

has been made but it is in the very early stages and still going through processing.” It seems to be quite straight forward with only written submissions and no need for an inquiry or hearing, so once an inspector is appointed, it could be concluded as soon as November if it stays this way.” Councillor MacRae added: "I hope the Secretary of State stands by the decision made locally. He doesn't live around here. It would be so unfair if he said they just had to get on with it." Read more at <http://www.nottinghampost.com/developers-appeal-against-rejected-housing-plans-in-stapleford/story-29657823-detail/story.html#6C3LZco0gj2xECif.99>

CONCEPTUAL FRAMEWORK – LOCATING THE PERCEPTIONS

As argued by Fenster and Yacobi (2005) there are a variety of images, perceptions and social construct about planning by different ‘actors’. These actors are mainly the planners – those representing the authoritative aspects of planning, and the residents – those who enjoy or are adversely affected by different planning policies. These actors are involved in shaping the urban spaces, and they possess multiple layers of knowledge, on which they base their actions (ibid). Planners’ knowledge is categorised as professional or expert knowledge, obtained from education and training, and their practice (what is referred to as epistemological processes and developments), while residents’ knowledge is categorised as local, daily subjective knowledge, based on intuitive perceptions and images of the city, and derived from daily routine practices (Fenster and Yacobi, 2005). It is further argued that both professional or expert knowledge and residents’ daily knowledge intermingle when it comes to issues such as the role of planning or perceptions of the ‘other’. However, more importantly the intermingling and juxtaposition of the two types of knowledge depends on the planning approach, and the role of the planner in the planning process.

The procedural rational planning knowledge is a powerful tool in rationalizing the different paths to the development of an area (Fenster and Yacobi, 2005). Given that the stage of conceptualizing alternatives for the development of an area is a key step in the rational comprehensive planning approach such rationalization leads to a preferred alternative in the eyes of planners and authorities, but not so much in the eyes of residents. This is where the dilemma arises. Residents have no idea what long-term planning, or the considerations that planning should look at are – hence the limitations with the abilities of the people to understand what the planning constraints are. Planners on the other hand do not understand the everyday life or the needs of residents which are the outcome of their lives – hence the limitations with the abilities of the professional knowledge to understand people’s needs. As pointed out by Fenster and Yacobi (2005) there is a lack of ability of each actor to bridge the knowledge gaps between the conceived and the lived spaces.

For Fenster and Yacobi (2005) perception of the planners’ stems from conceived space – the way in which professionals conceptualise and then represent space – a result of epistemological production processes and developments. Fenster and Yacobi (2005) citing Henri Lefebvre (1991) reckon space is a social product, a juxtaposition of interrelated dimensions of ‘perceived space’; ‘conceived space’; and ‘lived space’. For them perceived space relates to the physical space and the way in which it is organised. The perceived space therefore contains functional uses of space, such as infrastructures that shape our spatial experiences. The conceived space, for Lefebvre, relates to the way in which professionals such as planners and architects represent space. It is conceptualised space by these professionals as a result of epistemological processes and developments. While the lived space embodies images, symbols and ideas of the ‘users’ that give meaning to space. Consequently planners believe that there is no way to affect an area

other than via planning, and that as long as there is no planning, an area cannot be changed or developed.

Different stakeholders in planning have different expectations (Adams and Watkins, 2014). For instance, house builders want well-managed but not excessive land supply; landowners have power to shape development by the extent and speed of land release; commercial developer-investors hold substantial office and retail investment portfolios in strategic areas; local politicians keenly guard their planning decisions and do not always accept the recommendations of planning professionals; flows of capital can determine what does and does not get built (ibid). Adams and Watkins (2014) further point out that individual decisions taken by market actors – market actors may be in the public as well as private sector such as landowners, developers and investors – shape places and involves shaping markets. Shaping markets includes preparation of planning strategies, visions and policies. Thus planning has a clear role in supporting growth by regulating markets. And planning regulation is common throughout the world. And as observed by Adams and Watkins (2014) there is a distinct difference between regulatory systems: (i) consider each case on its merits (ii) require all cases to meet some pre-defined standards and norms (iii) combination of both.

Through regulating one of the three factors of production, land, planning can influence economic performance and productivity. The key drivers of economic performance and productivity are investment, innovation, competition, enterprise and skills (Barker, 2006). Therefore, an important function of planning is recognizing and understanding current economic factors and growth trends so that strategic decisions surrounding development can be made. Public-sector investment may and should promote growth through policies, but in most cases it is the private market which decides whether to build (RTPI, 2014). The management of what is built and where is the function led by the community, market and facilitated by planners (ibid). Therefore development is in many ways driven by the market. Planning may not independently create growth, but it plays an important role by working with private sector to determine where growth opportunities exist.

Adams and Watkins (2014) in their analysis of the economic effects of planning, identify three levels at which this might take place: (i) the macroeconomic scale – at which the aggregate economic impacts of planning can be partly assessed, (ii) the meso-level of neighbourhood, urban and regional scales – where differential impacts between different scales and territories can be explored to elucidate an understanding of spatial dynamics, and (iii) the micro scale – where the effects of planning on the decision-making of actors within the development process can be investigated. This paper also explores the approaches taken by planning to engage with the market, and to progress the debate on the economic effects of planning at the micro scale. We want to understand the economic role of planning practice.

The Economic Effects of Planning

In the foreword of the Planning Guidelines Number 13 of 2007, Dick Roche TD, Minister for the Environment, Heritage and Local Government in the Republic of Ireland pointed out that it is right that we have higher expectations of planning authorities...that they will support economic growth. At an individual level applicants for planning permission also expect that the planning process will be responsive and customer oriented. Adams and Watkins (2014) decry the dearth of research into possible alternatives to the neoclassical view that presents planning as a facilitator, rather than an inhibitor, of development. Much recent research that

explores the relationship between planning and the wider economy has used a neoclassical framework to investigate the costs of planning (RTPI, 2015). And an analysis of planning has emerged that point to the constraints that statutory intervention places on development and economic growth. The currency of this academic argument has in turn had a significant bearing on political debate. As noted by RTPI (2015) the effects of the planning system on economic growth, long an academic area of debate, has become an issue of increased political importance. In this respect, planning is now routinely perceived as an overbearing, regulatory state function the principal effect of which is to suppress our economic performance and contribute to the major social dilemma of our collective inability to provide sufficient housing at accessible prices (RTPI, 2015). Planning is routinely held accountable for our poor or limited development outcomes. If the argument is that we need less planning we must first explore the degree to which this inductive argument stands up to scrutiny: Is the problem planning itself or simply the way we have chosen to perform the activity? Planning is an activity constructed as an important market participant that animates land and property markets by providing the certainty and preconditions for investment that markets crave (RTPI, 2015).

According to RTPI (2015) planning in cities such as Hamburg, Lille and Nijmegen, is charged with engaging with the market and providing responses to market failures with which a passive, regulatory model of planning would be ill-equipped to deal. In Nijmegen, planning is used to lead and coordinate development through the use of specific mechanisms that guide and stimulate the market – land readjustment. Land-readjustment is a specific form of planning whereby land rights are temporarily pooled to deliver infrastructure or collective area-benefits to private land-owners that would significantly outweigh any benefits garnered from acting in isolation. Planning can be used to catalyse more and better quality development. And better development leads to improved economic outcomes.

The purpose of planning is to promote proper development, rather than merely to control ‘undesirable’ forms of development. The term ‘development management’ is preferred to ‘development control’ because it implies a more positive role for the planning system (Department of the Environment, Heritage and Local Government (DEHLG), 2007). Development management is a collaborative effort between the applicant’s design team and relevant planning authority staff, where all concerned strive to make successful places for people, in terms of function, amenity and visual appearance, access, safety and maintenance. Adams and Tiesdell’s (2010) classification of planning into four (4) types demonstrates the variety of ways in which planning has an impact upon economic growth: (i) Market shaping – represent actions such as strategy making and visioning that set the decision-making environment for market transactions, (ii) Market regulation – through development control decisions and design codes, constrains the decision-making environment of market actors by regulating market transactions, (iii) Market stimulus – expands the decision-making environment of market actors by facilitating market transactions, in the form of land assembly and public-private development partnerships, and (iv) Market capacity building – increases the effectiveness of market processes by developing skills, enhancing knowledge, building networks and changing entrenched cultures.

UNDERSTANDING THE PERCEPTIONS IN BOTSWANA

The principal legislative framework through which planning is delivered in Botswana is the Town and Country Planning Act (TCPA) of 2013. The TCPA 2013 is a plan-led system of land use regulation – it entails the requirement of planning permission for any development of land.

Consequently Botswana operates a ‘plan-led’ system, meaning that national and local planning policy is set out in formal development plans. Under the plan-led system, decisions on planning applications are made in accordance with the development plan, unless there are material considerations to overrule the plan (Barker, 2006). Development plans set out what kind of development should receive planning permission, how land should be used and developed. So as observed by Hubbard (2014) decisions planners and local planning authorities make each day on individual planning applications are supposed to be based on the policies found within these local development plans. To understand the tensions and perceptions that obtain in the planning process between the planners and developers, the paper outlines a number of case examples from local authorities in Botswana:

Case 1: Application for planning permission for development of a shopping mall in Palapye.

In this case Platinum Icon in a joint venture with South African partners are developing a shopping mall in Palapye along the A1 main road in a plot owned by Palapye Community Trust. The development is going to be developed in two phases. Phase one was focused on the transit market hence included a filling station, and drive through restaurants. The developers have a shopping centre in Mahalapye and wanted to take advantage of Palapye as a major junction, economic hub and regional setting for Tswapong and Bobirwa areas. Thus in December 2015 the developer engaged and had a discussion based on the concept design with the local planning authority, a pre-application discussion. Then an application was submitted in January 2016, but it was not until July 2016 that planning consent was given. The developer noted that once the application was submitted it was as if the pre-application discussion was disregarded. The developer points out that the application was not attended to diligently and speedily in that feedback, comments and response was not forthcoming from the local planning authority based on the submission. Instead the issue was on the land rights and land documents (lease agreement). Of course the developer had their own challenges in seeking land from the Palapye Community Trust, in that the new committee and old committee tussled about the land.

That notwithstanding, since feedback failed to come from the local authority, the developer had to engage with the planning officers and with the Physical Planning Committee in May 2016, which led to planning consent in July 2016. Furthermore the developer complained to the Council Secretary. In an interview the Architect for the development of this shopping mall indicated that developers are sensitive to development dynamics and thus expect the local planning authority to give priority to commercial development. It was pointed out that planning should facilitate development rather than using planning to block development. More importantly the architect reiterated the need to improve pre-application discussion. In his view this application took six months from submission of application to planning and building permit consent because planners lack knowledge of project planning and management as well as the real estate process. In this case it is argued that the planning authority failed to articulate planning considerations to the developers clearly such as sufficient loading bays sizes, parking issues and setbacks.

The developer pointed out that public sector developments are given priority and preference as compared to private sector developments. The developer attributed this to a mind-set and thinking by planners that private investors are going to make money only. Asked about their experiences with the Physical Planning Committee, the developer indicated that the knowledge-base and composition of the PPC was helpful because it had diverse members. By

and large, they reckon the planning office could have been supportive, otherwise, the engagement felt like they were pleading on the basis of the national effects of the project such as social economic benefits and employment. It was highlighted that at the time the application was submitted four other new shopping centres along the A1 road in Palapye were ongoing. Thus competition from other developers made the developer more agitated, and at times felt that others were given more preference.

The developer pointed out that planning needed to grasp four aspects:

- i. Understanding of business and economic dynamics, and transferring that to planning, for instance it seemed that planners were fixated with zoning and designing local centres arbitrarily.
- ii. Urban planning is evolving and encompassing urban design rather than focus on zoning and land use.
- iii. Appreciation of urban renewal and regeneration as well as redevelopment aspects especially mixed use.
- iv. Take into account dynamics of development and avoid being rigid, hence flexible to changing dynamics.

Case 2: Application for planning and building permission for development of a commercial building in Maun.

The applicant in this case sought permission to develop a commercial building consisting of 6 retail shops and a butchery. The application was first submitted on the 29th October 2014. In assessing the application the local planning authority noted that the plot was immensely located within Matshwane residential area and it was designated as a residential plot as per the Maun Development Plan 1997-2021. However, the plot measuring 3 092 m² was allocated for commercial use (corner shop) by Tawana Land Board on 18th September 2009. The applicant proposed to develop a commercial building consisting of 7 shop spaces with the plot gaining access from a 15m road which the local authority viewed was unsuitable to access high order commercial activities such as the one being proposed. The application was initially deferred and the applicant was invited to a hearing by North West District Council, at the Physical Planning Committee meeting of 3rd – 4th February 2015. The reason for the deferral was for the Technical team to consult/investigate the lease document before the applicant was called for a hearing as there was some conflicting information on the lease agreement. The allocated use on the lease reflected a corner shop whereas the sketch plan reflected civic and community. The Planning division wrote a letter to Tawana Land Board seeking clarification on the allocated use of the plot in question and it was ‘corrected’ to reflect a corner shop.

Once that was sorted out then the North West District Pre-Physical Planning Committee deferred the application for the applicant to address the following:

1. Provision of a paraplegic sanitary facility with ease of access
2. Provision of a contiguous open space of at least 5% of the buildable area (possibly located behind the parking setback, at grade)

3. Provision of solid waste refuse cage screened from view on at least three (3) sides by a solid wall 1.8m in height, with a solid gate on the fourth side and a roof enclosure
4. Meet the minimum 3m side setback along a common line with residential zone
5. Meet the minimum 4.5m rear setbacks per the Development Control Code, as depicted in Table 2.10 in the Code
6. Indicate firefighting facilities and their positions
7. Obtain authorization for development subject to the Department of Environmental Affairs environmental impact assessment
8. Submit Environmental clearance report from the Department of Environmental Affairs
9. Provide a functional and efficient loading bay next to the loading points. (As well as provide loading points at the rear of the building).
10. Match the floor plan with the one on the site plan, (i.e. at the paraplegic toilets)
11. Reference details on section plans, as well as reconcile section plans and details.
12. Provide column details

After some time, the applicant complained by writing a letter and discussing with the ‘bosses’ at Headquarters saying the planning office was delaying his application, only to realise the planning agent/consultant had not resubmitted corrected drawings. The said drawings were eventually resubmitted in April 2017. However, the application was withdrawn as the applicant had not met some of the abovementioned conditions and requirements.

Case 3: Application for planning permission for regularisation and extension of an existing commercial building in Maun.

The applicant in this case sought permission to regularise and extend an existing commercial building (warehouse). The application was submitted on the 14th June 2016. In its assessment the local planning authority noted that the existing development was compatible with the existing residential neighbourhood. The existing developments however, occupied two stand-alone commercial plots, one for bottle store, fresh produce and restaurant with a plot size of 730m². The other plot was allocated for a general dealer with a plot size of 4 016m². The Maun Development Plan however had ‘consolidated’ these two plots and the existing developments therefore occupied this ‘consolidated’ plot. A waiver on regularisation of plot consolidation was being sought by the applicant as the Maun Development Plan had effectively consolidated them as such. But there were no sketch plans attached on the land right document for the individual plots. The applicant also requested for a waiver on the required number of parking bays, as well as the loading and offloading bays. As per section 3.4.5.6 of the Development Control Code, a development with a floor area of 3 282m² requires 3 loading bays of 5m x 22m in size and the applicant had provided 2 loading bays. The applicant also had a shortfall of 10 parking bays.

The Building Control Technical Committee deferred the application for the applicant to:

1. Submit a location map for the proposed development
2. Submit a site plan stamped/signed off by a registered Physical Planner and submit registration certificate of such.
3. Submit a site plan drawn to the scale indicated (1:100)
4. Indicate on the drawings and meet all the plot setbacks

5. Indicate walls and openings to be retained and demolished on the floor plan
6. Meet the shortfall of 10 parking bays
7. Provide one canopy tree type for every 2 parking bays as per the Development Control Code, 2013
8. Make provision for three (3) functional loading & offloading bays of 5m x 22m in size.
9. Make provision for four (4) paraplegic parking bays.
10. Make provision of minimum 5 percent contiguous open area on the site as required in the Development Control Code, 2013
11. Provide a continuous pedestrian walkway/canopy at building frontage
12. Submit approved architectural drawings for the existing structures or submit such drawings and apply for regularization.
13. Indicate the customer's trolley parking area
14. Provide change rooms, lockers & showers for the staff per gender.
15. Locate the refuse bay on the side or rear of the building and be effectively screened from view of residential properties as per Development Control Code, 2013
16. Submit plot lease
17. Submit 'as-built' drawings for the existing interior offices.
18. Submit Environmental Impact Assessment clearance from Department of Environmental Affairs.

Apparently the applicant then just decided to carry on with the extension, feeling the planning office was delaying them. However, the planning office managed to engage the applicant and persuaded the applicant to resubmit the application inclusive of the regularization for what has already been done and reasons for developing without approval. The applicant subsequently ceased any further developments, and the planning office is awaiting corrections from the planning agents/consultants. That notwithstanding, and given the situation, the applicant has also lodged a plea to the Council Secretary on the delay blaming it on the planning office.

Case 4: Application for Library Development in Hukuntsi

In this case the Village Development Committee (VDC) asked for a piece of land to build a public library in 2015. In a District that is not well established and there is no Estate Officer, the Physical Planner applies for land for the VDC. There was a discussion between the VDC and the Physical Planner regarding the piece of land they had identified for the library development and a site visit was conducted for the same. Upon inspection and site assessment the VDC was advised that the piece of land they had identified was not suitable for the proposed development reasons being:

1. There was not enough space for the developments that they required; therefore it would in future constrain developments. They needed a 50m x 60m plot and the land they had identified was 20m x 45.9m x 46.8m x 58.3m.
2. The plot was adjacent to a road that may in the future need to be expanded as the village grows and it would further compromise the size of the plot as there was need to leave a servitude.
3. There was a water line that traversed the identified piece of land thus further reducing the size of the plot.

4. The identified plot was on a very busy pedestrian passage that links the western part of the village with services such as shops, post office, mall, hospital etc., therefore having a development there will tamper with pedestrian movement.

However, the VDC felt the piece of land was adequate and they wanted to settle for it. Despite the site visit and measuring the land in their presence, the VDC still insisted on having this piece of land. The aforementioned reasons were put forth before the VDC citing the constraints of this piece of land, but the VDC felt that the Physical Planner was not giving them the assistance they required and that the Planner was being difficult. So the VDC resorted to the Council Chairman and lodged a complaint. The VDC also complained to the Area Councillor. Consequently an application for this piece of land was submitted to the Sub Land Board and the application was approved despite the Physical Planner's advice to the VDC and subsequently to the Land Board about the shortcomings of the said piece of land. The plans for the library were never submitted to Council and the project was coordinated from Gaborone by the Department of National Library Services. Thus the development of the library is ongoing, however time and again challenges are encountered. The contractor and the VDC have been to the Physical Planning Office twice asking for advice because of the challenges. So far they have asked to close, in order that they can use, the passage that was purposefully left to allow for pedestrian movements because they did not have enough space to store aggregates and other building materials and still have enough space to start off the building. Upon fencing the piece of land, they also realized that the water pipe was within the plot and Water Utilities Corporation advised that the water pipe must be outside the plot. So they were forced to further reduce the plot size.

Case 5: Application for planning permission for Guest House Development in Hukuntsi

The Guest House application and drawings were approved in 2013. The Guest House is located in Hukuntsi. After the approval of the drawings, the developer went ahead and developed without engaging the Council throughout the construction stages. When they were supposed to get a tourism license in 2016, one of the requirements was an occupation permit. Without the Council been involved in the construction process, it was not possible to issue an occupation permit forthright. The development was thus subjected to inspections to ensure that all was in order before an occupation permit could be issued by the Council. Upon inspection, it was established that the drainage system for the Guest House was not functional. It was observed that though the Guest House shared a conservancy tank with the mall, the sewer pipes from the mall and the Guest House were at different levels. The sewer pipe from the Guest House to the conservancy tank was lower than the one from the mall to the conservancy tank. Thus whenever the conservancy tank was filled to the level of the sewer pipe from the Guest House, there was a backflow of waste water to the Guest House. This resulted in waste water over-flowing from the drains at the Guest House. However, in the master plan, there were four (4) conservancy tanks to be built but the developer just built one.

Upon realizing the challenges of the drainage system during inspection, the developer was advised to reconsider changing the drainage network but they were reluctant to do that. The developer asked for a conditional occupation permit but they were told that an occupation permit has no conditions. Nevertheless, they did what they were advised to do but when it failed they were asked to create a separate conservancy tank for the Guest House. They then felt that they were being denied operating the business and felt the goal posts kept changing. They wrote a letter to the Senior Assistant Council Secretary stating that the Planning

Authorities were delaying them and keep making demands after demands rather than helping them. They even threw allegations of Planning Authorities wanting to be bribed before issuing an occupation permit by demanding changes which to them did not make sense. The developer was eventually given the occupation permit but the problem persists to date. They have since realized that the Planning Authorities were just trying to help them rather than constraining their development.

Case 6: Application for planning permission for development of a Guest House in Letlhakane

In this case the Boteti Sub District Council, through its Physical Planning Office received an application by a certain developer in Letlhakane in 2010. It was an application for development of a guest house. The application was approved in December 2010 and the applicant started construction soon after. However, it emerged much later that the applicant had not developed as per the approved plans (deviated from the approved site plans but conformed to the approved building plans) and yet the Building Inspector continued to issue inspection reports up to the final inspection without noticing that the site plan was ‘flipped’. In 2013, the applicant then sought extension of this same plot from the Boteti Sub-Land Board. The application for extending the plot was referred to the Physical Planning Office to seek advice. The Physical Planning Office advised the Boteti Sub-Land Board not to extend the plot on the basis that the plot would legitimately be changed to a hotel and/or lodge, and therefore the plot wouldn’t meet the access requirements. By then the requirement was that a hotel must gain access from a 30m road whereas a guest house must gain access from an 18m road. Nevertheless in December 2013, the Boteti Sub-Land Board went on to approve the application for extension of that plot and further changed the use of the plot to a lodge despite the guidelines for tourism related accommodation that require that a lodge be located in the vicinity of wildlife management areas or protected areas.

In November 2014, the applicant submitted an application for development of a hotel and a waiver on the access. There was also an element of regularisation since the applicant had built other structures without a building or planning permission. The application was considered by Building Control in December 2014 and again in February 2015, then comments were posted to the applicant. The applicant resubmitted in July 2015 and some comments were still recurring and unresolved. Apparently, the application was considered in several Building Control meetings with some comments still recurring. Usually when something like this happens, it was pointed out, the Physical Planning Office would call the applicant together with their architect to come and discuss the comments. However, for this application it was difficult since the applicant kept changing the architects and hence the Physical Planning Office discussed the comments with the applicant only. This was not bringing any solution to the problem as the applicant was not very conversant with some of the comments and requirements. For instance, there was a comment to the effect that 60 or more rooms of accommodation in a hotel necessitated a Traffic Impact Analysis (TIA). This is a requirement by Development Control Code of 2013. On that basis for subsequent submissions the applicant would propose 60 rooms, the next resubmission (submission of corrections), the applicant would submit 58 rooms and final submission would be 61 rooms. It was always inconsistent.

After realising that the application was being delayed, the Physical Planning office took it for further consideration with a recommendation for conditional approval to the main Physical Planning Committee (PPC) in August 2015. However, the PPC resolved to reject the

application, the main reason being that the hotel was not accessible. But before the final resolution, the applicant appeared before the PPC in order to clarify what the Physical Planning office might have left behind and to avoid bias. The applicant was invited before the PPC in September 2015 where the applicant highlighted to the PPC that they had long submitted the application and was delayed by the Physical Planning office. On the issue of access, the applicant indicated that there were other alternative accesses leading to their plot. However, in the Letlhakane Development Plan, the said accesses fell within different land properties. The applicant was adamant nonetheless, that the Letlhakane Development Plan was not depicting what was on the ground. The PPC then requested that a sketch plan be sought from the Sub-Land Board and resolved to defer the application until a detailed and informative sketch plan of the area was sought from the Sub-Land Board. In November 2015, a sketch plan from the Sub-Land Board was provided which depicted what was on the ground and which was different from the Development Plan. The Physical Planning Committee took a decision to allow the applicant to use the said alternative accesses. The application was deferred though, so that the applicant could submit designs that met the new proposed accesses. The applicant then resubmitted to the Physical Planning office late in January 2016. However, the redesigned drawings were not a complete set, in terms of the required types and number of drawings. The applicant argued that the 'incomplete' set of drawings should be forwarded to the Physical Planning Committee on the grounds that the Building Control Committee intentionally delayed their application. The application was further deferred by the Physical Planning Committee for the application to be submitted complete, that for all drawings to be submitted. The applicant then resubmitted in September 2016, but the application was completely different from the previously submitted application. That notwithstanding the Physical Planning Committee resolved to approve with some conditions. Interestingly, the applicant has not undertaken the conditionally approved development. Instead in early 2017 the applicant submitted a letter withdrawing the above application.

Why is there misunderstanding/mistrust between developers and planners?

In an interview with one of the Practitioners in the local planning authorities it was pointed out that developers are still lacking information as to what the role of planners is in the development process. So instead of seeing planners as vital advisors in coordinated developments, developers see planners as constraints to developments. This may be as a result of the processes developers have to go through before they start their development of which they are not even aware of. Some developers also feel that these processes are stringent and impede developments. On the other hand, the practitioner believed that planners have not really been given a platform to exercise their profession and there is need for support from the leadership. The practitioner pointed out that unlike in other countries like South Africa and Kenya where planners are respected for what they do and trusted to do what they are trained for, Botswana is still far from achieving that. Thus planners have failed to have an impact in the development of settlements, villages and towns, as their involvement is very minimal. This has led to the profession not being fully recognized and appreciated.

According to views of yet another planner on mistrust between developers and planners, there seems to be misunderstanding between planners and developers because developers do not want to comply with regulations and policies, they end up seeking mechanisms in order to escape compliance to the policies and regulations. For example, the applicant who wanted to avoid providing a TIA by changing the number of rooms every time they re-submitted. On the other hand planning plays a universal role to merge all the stakeholders pertaining to a certain

application. The planning authority plays a major role in making sure that the application once approved and operational does not incur any non-conformance. This to some extent, leads to the planning authority to require developers to perfect their applications as much as possible. For instance in the case of the above cited application, the authority wanted to avoid a situation where a huge hotel of 58 rooms would be built with no proper access road.

In an interview with another practitioner, the discussion was as follows:

Question: Why do developers reckon/argue/complain the planning office delays processing their applications for planning permission?

Response: There are instances where applicants complain on the delays, even at the different committees. We have however shown that the delays are a result of a two way process from both the office and the clients themselves.

Question: Do developers lodge/write complaints to the local authority that they are not getting due service and assistance from the planning office?

Response: So far I have not experienced this. However as for the delays for planning permissions the letters are sent to the Headquarters.

Question: If you can, outline the processes engaged in between developer and planners, from pre application and its outcomes, to reaction of the developer.

Response: This is the process that should happen (see Figure 1). But in actual fact, developers don't come for a pre-planning meeting then complain about rejections. Their consultants also do not submit corrections in time hence the delay in processing. In some instances we had consultants bringing corrections a day before PPC meetings, then they tell clients their applications will succeed. So once the client learns that the application will only be processed in the next month the blame is then given to the office.

Figure 1: Planning Consent Process



Question: What actions are taken by developers if dissatisfied, say lobbying councillors, writing to the minister, going to land tribunal for appeal.

Response: Most developers take the Appeal route, but so far we have a 96% success rate in matters of appeal. Usually those who write to the minister are councillors or former senior officers. We have an instance where one wrote to the minister concerning a rejection on the

basis that where they wanted to build a hotel was actually zoned residential; therefore somehow the application got approved via the top structures.

Question: Indicate status of the applications where there is dissatisfaction, whether development went ahead or developer gave up.

Response: Developers only give up and sometimes develop illegally when the financiers are off board. Most finance authorities require the approval of the planning authority before development, hence curbing illegal developments. However, minor developers (advised by private planners), develop illegally then request for regularization afterwards. We also have instances where some councillors proceeded with developments without approval, but in recognizing this we enforced immediately. But enforcement is not done full scale currently. Just done in major developments

Question: Advance your reasons on why there seems to be misunderstanding/mistrust between developers and planners

Response: We acknowledge that there are both external and internal challenges relating to assisting clients on record time with the following noted:

1. **Delayed resubmissions:** Submission of applications by agents/ representatives: communication of building control outcomes is directed to these but they (agents) do not communicate to clients on time/ delays in submitting back corrected drawings for re – assessment
2. **Failure to hold pre-application meetings:** Consultants tend to submit applications without requesting for a pre-application meeting between client and the Physical Planning/ Architect's office
3. **Poor quality work by consultants (both Planners and Architects):** Every application is subjected to the Development Control Code, the Development Plan and other regulations, regardless of being drawn by a planner or an architect.
4. **Illegal developments:** When applicants seek regularization they expect council to agree to what they present before them even when development requirements are not met
5. **Poor planning structures:** As long as the Pre-PPC and Physical Planning committee can overrule the decisions of the Building Control we will still experience delays. The Building Control assesses applications based on the Law, Code, but the PPC sometimes assesses based on emotions and discretions of people who are not planners.
6. **Failure to debate issues as planners:** the planning structures are already top-down, hence bringing a lot of gaps in the profession.
7. **A lot of policies but no content:** We operate under a lot of policies e.g. Land Board Policy Guidelines, National Settlement Plan, National Spatial Plan, DCC, UDS, Development Plans, Local plans, Rezoning plans etc... BUT all these do not correlate at some points. For example, there is no answer as to WHICH POLICY TAKES PRECEDENCE OVER OTHERS AND EVEN THE PRECEDENCE ORDER IS NOT WRITTEN ANYWHERE. As an example, the following are what is set as the minimum resultant residential plot size after subdivision:

- | | | |
|------|-----------------------------|--------------------------|
| i. | Development Control Code | - as per UDS |
| ii. | Urban Development Standards | - 100-1000m ² |
| iii. | Tawana Land Board Policy | - 600-1000m ² |
| iv. | National Settlement Policy | - 600-1000m ² |

v. Maun Development Plan - 1000m²

8. **Following old protocols:** There is a reason why doctors and lawyers are respected. They have proven to the world that they run themselves and advice accordingly. As for planners, our decisions can still be over ruled by Council Secretaries and Senior Assistant Council Secretaries, which will forever affect the planning fraternity. These challenges in totality result in delays which negatively affect the turn-around time for issuance of permits.

CONCLUSION

Much recent planning policy and reform is informed by the view that planning inhibits economic growth. Thus planners need to recognise that they are market actors already involved in market shaping and regulation. Planners need to develop their capacity by seeing themselves as active participants in development, meaning they need to have information and knowledge about real estate markets, they need to network with developers, and they have to enhance their skills and capabilities of development economics. But there will always be a limit to how quickly complex planning decisions can be made, given the importance of consulting other parties.

The current primary legislation for planning is not fit for purpose, it needs further review: Firstly it is supposed to embed meaningful community engagement in the procedures and embed opportunities for feedback. Secondly it must provide procedures for delivering major infrastructure projects (nationally significant infrastructure). Thirdly planning should develop a process that moves on from simply assessing development proposals to a more pro-active approach that begins with a place-making vision and is followed through by effective enforcement.

References

Adams, D. and Tiesdell, S. (2010) Planners as market actors: rethinking state-market relations in land and property development, *Planning Theory and Practice*, 11: 187-207.

Adams, D. and Watkins, C. (2014) *The Value of Planning*, Royal Town Planning Institute (RTPI) Research Report no. 5, June 2014. London: RTPI. Available at: http://www.rtpi.org.uk/media/1020792/rtpi_research_report_value_of_planning_full_report_june_2014.pdf

Barker, K. (2006) *Barker Review of Land Use Planning*, H.M. Treasury, London

Cheshire, P., Leunig, T., Nathan, M. and Overman, H. (2012) *Links between Planning and Economic Performance: Evidence Note for the London School of Economics Growth Commission*. London. London School of Economics.

Cambridge Centre for Housing and Planning Research (2014) *The Nature of Planning Constraints: Report to the House of Commons, Communities and Local Government Committee*. Cambridge. University of Cambridge.

Department of the Environment, Heritage and Local Government (2007) *Development Management: Guidelines for Planning Authorities – Planning Guidelines number 13*. Available

online: <http://www.housing.gov.ie/sites/default/files/migrated-files/en/Publications/DevelopmentandHousing/Planning/FileDownload%2C14467%2Cen.pdf>

Fenster, T and Yacobi, H (2005) Whose City is it? Urban planning and local knowledge in Globalizing Tel Aviv-Jaffa. *Planning Theory and Practice* Volume 6 Issue 2

Henneberry, J., McGough, T., and Mouzakis, F., (2005) The Impact of Planning on Local Business Rents, *Urban Studies*, 42/3 pp471-502

PriceWaterhouseCoopers (2004) Encouraging the Supply of Visitor Accommodation across London, Final Report to the London Development Agency.

Royal Town Planning Institute (RTPI) (2015) Planning as ‘market maker’: How Planning is used to stimulate development in Germany, France and The Netherlands, RTPI Research Report number 11, London