

# Minutes of the Roundtable between parliamentarians, industry leaders & Christopher Katkowski QC

10am, Tuesday 8th February 2022 (online meeting)

## Members

Ben Everitt MP (BE) - Chair

## In attendance

APPG Secretariat

Build-ID

LPDF

Aster

Settle

Sanctuary Group

Stonewater

Devonshires

Trent and Dove

Barratt

Get Living

Skanska

Wates

PPR Estates

RPS

## Guests

Christopher Katkowski QC (CK)

*Meeting Started at 10:00am*

### 1. Introduction - Christopher Katkowski

- My work is primarily focused on planning inquiries and judicial reviews. I have also participated in planning reforms for successive governments. I have a particular interest in what this group does, as much of my work is centred around housing and regeneration. Additionally, another area I am passionate about is affordable housing delivery.
- Today, I would particularly like to talk to you about the interplay of planning for housing and politics.
- There are three main aspects.
  - First, local plans. Planning law enshrines local plans in a way that means that planning decisions should not diverge from local plans unless there is a very good reason to do so. The problem with local plans at the moment is that they are expensive and time consuming to make; taking a plan through the system takes too many years. By the time they are adopted, their evidence base is soon out of date. The planning reforms I've been working on with Govt. seek to focus local plans on telling us what is to be built where, and which areas are protected from development. We have tried to streamline the plan making system so that plans can be put in place relatively quickly, with their focus being what matters most rather than reiterating policies which are found in national planning policy. Political leadership is needed to ensure that local authorities are incentivised to make up to date local plans. I have advocated the twin incentives of raising the bar so that it is made much more difficult to make

- decisions contrary to local plans and that they should protect local authorities from arguments about their housing land supply, preferably for a number of years.
- Secondly, the issue of housing numbers and how many houses need to be built in a stated period. The government has set a standard method for determining how many houses need to be built in each local authority's area. This has proven hugely controversial in terms of the interplay between the numbers that result from the methodology and the effect of constraints such as the green belt. During my time working with Robert Jenrick, I was in a (virtual) meeting with all Conservative council leaders and opposition leaders to discuss planning reform; the meeting was dominated by the issue of housing numbers. We do need political leadership on this matter: either we have a system where the numbers coming from this methodology are mandatory and fixed, or we have a system that is more flexible to local influences; one would produce more housing, the other less; a political decision needs to be made. In addition, the Govt has powers to intervene where a local authority has stalled or isn't making a local plan but I don't think anyone really imagines that the Govt would actually step in and take a plan forward itself so the threat isn't perceived as a real one.
  - Finally, affordable housing. The market is unable to deliver enough affordable housing in the system that we have which in essence and subject to viability issues seeks a percentage of new homes in each development to be affordable. The planning reforms suggested a new infrastructure levy; if there is going to be a new tax on development, I believe that the priority use of that money should be for affordable housing.

## 2. Questions and discussion

**Q: How can we improve engagement with young people in terms of local plans, so that their concerns on environmental and social integration issues can be heard? How do we improve engagement between councils so that they can share their learnings with each other?**

CK: There was a huge push in the whitepaper for digitalisation and finding better ways to engage with communities than the traditional ways we've been using thus far. On sustainability and environmental issues, we have good standards and policies at national level filtering down to local level. Social integration is important, and with the right policies shouldn't be so difficult to achieve. Incentivising the use of brownfield sites has been a recurring issue in planning for decades. Ironically, brownfield sites often have densely populated existing communities around them and can be more controversial than greenfield sites.

**Q: Do you believe that the current planning system is more focused on preventing bad developments, instead of encouraging good developments?**

CK: You are right that there is a legacy in the planning system which focuses on standing in the way of bad developments instead of incentivising good developments. There have been positive changes on this in recent years with successive editions of the national planning policy framework. The new concept of building beautiful is one incentive to achieve better quality development. Often there is a silent majority of people who want to support what is being proposed but for whatever reason don't speak out. The system is very biased towards people who want to object versus those who want to support proposals; those who oppose tend to organise, and dominate the debate. Digital engagement is probably a good solution to this.

**Q: What is your view on the resourcing issue for local authorities and how do you think we could resolve this? What is your view on planning permissions now requiring what appears to be 'information for the sake of information'?**

CK: Resource issues are 100% a big problem. One idea is for those promoting sites via a local plan to have to pay a fee in order to do so. In my discussions across the industry I found support for this. On the subject of information for the sake of information, the planning reforms put forward some ideas on how to streamline the application process to focus on outcomes rather than process and padding.

**Q: Is the current system encouraging cooperation between local authorities? How do we ensure the deliverability of developments on the permitted sites?**

CK: The idea that we need local authorities to cooperate, and not necessarily agree (“the duty to co-operate”) is a ridiculous system and needs to be replaced with a strategic sub-regional overview of what needs to be done, where, when and how. There needs to be an obligation to seek agreement with a default position if agreement isn’t reached. In terms of ensuring deliverability, the compulsory purchase system could be made easier and more effective.

**Q: How do we align all the relevant people in the planning system so that it is fit for purpose?**

CK: Most decisions go the way that the planning officer recommends. Others end up with members deciding contrary to the professional advice they have been given. There were wide ranging views on how to resolve this (if at all) in the task force’s work on the planning reforms. Fundamentally it is a political issue and (for what it is worth) my own view is that there is and should be no getting away from the fact that in a democratic system, officers advice and members decide. But matters would be improved by reforming the planning system so that its governing principles are more clearly set out.

**Q: What else came out of your work on how politics is going to help solve the problems discussed in this meeting?**

CK: As I’ve sought to stress, political leadership is required in order to decide how the planning system is to be reformed. We mustn’t underestimate the time that will be required to get primary and secondary legislation, revised policies and guidance into place before delivery of a reformed system can start. We just need to get on with it.

**Q: There is a huge issue with the interaction with Natural England because so many applications are being held up due to the phosphates and nitrates issue. How do we get through this?**

CK: Let’s not forget issues concerning water abstraction have also led in effect to embargos on development in parts of the south east. Another working group has been looking at potential reform of the process and substance of habitat regulations assessments. I am a member of that group. I have every faith that worthwhile proposals will be put forward by the DEFRA Secretary of State.

BE thanked CK for his time.

*Meeting ended 11:00am*