

Book Review : A Practical Approach to Planning Law

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Published version

DICKINSON, Jill (2015). Book Review : A Practical Approach to Planning Law. *Urban Studies*, 53 (4), 844-846.

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A Practical Approach to Planning Law

Victor Moore & Michael Purdue

2014

Oxford, Oxford University Press

722 pp.

£54.99 paperback

ISBN: 978-0-19-870558-1

The very nature of 'planning' law implies qualities of both foresight and organisation. Yet plans tend to be just that; a passive framework within or against which decisions can be taken. Even the most well thought-out, best-laid plans still need proactive, key stakeholders to turn them into reality.

Another issue with plans is that, however clearly-drafted they may be, they do also remain at the mercy of different interpretations and when there are so many people involved in the planning process, this can present another, frustrating obstacle in terms of timeliness in decision-making.

So, the very nature of planning law means that those working within its constraints face some difficult challenges which are made all the more demanding by the challenge commonly faced by all facets of law which is to achieve that often elusive balance between competing, stakeholder interests.

In its quest to achieve such ends, planning law in particular seems to undergo frequent mutation, underlining the need for a thirteenth edition, and 722 pages, of

such a detailed text as Moore and Purdue's A Practical Approach to Planning Law which provides a road map through the minefield that is planning law.

Throughout its 29 chapters, and four, supporting appendices, the text works its way through a brief history of planning law, introduces the key players involved and explains the role of development plans. It identifies when applications for planning permission need to be made, and covers enforcement, whilst also guiding the reader through the practicalities; from the initial drafting of the documentation needed to support the application, through to the decision-making stage. The handbook also covers the appeals process and outlines other remedies available.

Besides its central focus on the main planning law system, the text also includes separate chapters on the additional rules and regulations placed on: listed buildings, conservation areas, ancient monuments, areas of archaeological importance, minerals, outdoor advertisements, trees, hedgerows and high hedges, nationally significant infrastructure projects and town and village greens.

In covering such wide-ranging topics and in an appropriate depth, the text cleverly strikes a difficult balance in achieving simplicity without over-simplification and therefore proves useful for both practitioners and academic scholars alike, whatever their experience of the seemingly ever-changing planning law world.

It's clear that the uncertainties created by the run-up to last year's general election have been widely-felt and those involved in planning have not been immune. For example, the community infrastructure levy regime, introduced in April 2010 to help fund supporting infrastructure, has recently undergone yet another round of amendments which limit the use of s.106 planning obligations, causing a potential headache for those councils who haven't bought-in to the new CIL regime as they

seek alternative funding. The text also highlights other significant, recent changes too referring, for example, to 2014's Technical Consultation on Planning, for which the Government's response has become available since this text was published (Department for Communities and Local Government, 2015). Purdue alludes to such seemingly incessant changes in the text's preface when he similarly refers to the "continuous stream of judicial pronouncements on the meaning and application of [planning] legislation and the new legislation that never ceases to pour out of Parliament", citing that as clear justification, if in fact any was needed, for this new edition of the text. His comments also echo those made by his co-author Moore in the preface to his original first edition, which wisely acknowledge that "if a publication in this subject were to await the translation of all proposals into reality, no books on planning law would be published at all"!

In no place are both authors' musings more evident than in the first chapter which takes a look back through time at the plethora of milestones which together constitute planning law's history. Since the "big four" Acts came into effect in May 1990, the text outlines the 10 further statutes which have subsequently imposed significant changes on the system, most recently to combat the red-tape challenge (GOV.UK, 2014a) which seems to have plagued the planning law and policy framework since its inception which Moore and Purdue trace back to 1909.

In fact this red-tape challenge is clear throughout the text; planning law seems to be historically defined by its plethora of complexities and perhaps necessarily so. In their very first chapter, Moore and Purdue refer to the continuing conundra that planners face, for example in ensuring a robust system whilst keeping up with the pragmatics of developmental pressures, and also in encouraging democracy whilst making timely decisions. One obvious attempt to meet such challenges is referred to

in the text's analysis and evaluation (set out in chapters 3 and 4) of both the development plan system and its evolution, contributing towards what Housing and Planning Minister Brandon Lewis has since termed a "genuine neighbourhood planning movement", with recent Government statistics indicating that more than 160 communities have been consulted and that 31 such plans are now in force (GOV.UK, 2014b). The authors highlight the important purpose of such plans, whilst also acknowledging the limitations of their effectiveness, for example because their role isn't "entirely prescriptive" (p.37). Indicative of the approach taken throughout the text, the authors' discussion cites useful case-law to help guide the reader in understanding the level of emphasis likely to be placed on the development plan in the determination of planning applications.

Given the numbers of planning permissions involved, (according to Government figures there were 216,000 applications granted in 2013 alone), it's unsurprising that the text devotes 2 chapters entirely to the meaning of "development" for which planning permission is required. Again supporting case-law precedent is provided, as are other practical examples to help illustrate the surprisingly-wide range of matters deemed to fall within this definition.

Practical examples also provide a useful reference point within other chapters too, for example in chapter 28 where instances such as the Heathrow Airport Terminal 5 and Sizewell B Nuclear Power Station are used to provide context for the planning law framework relating to nationally significant infrastructure projects.

To analyse/evaluate each chapter of this considerable text is unfortunately yet unavoidably outside the confines of this review. However, one final point worthy of note in respect of its substance is that it's refreshing to find that the text doesn't shy

away from discussing the moral issues underpinning planning law and policy; for example within its frank discussion of the problems associated with planning law gain which tend to have previously been highlighted by the media as "cheque-book planning" (p.301).

In terms of the user-friendliness of its format, the text should be equally appealing to both those readers who are interested in gaining a detailed understanding of the planning law system through a front to back read-through, and also those looking to dip in and out of the text for answers on specific points. In typical *Practical Approach* series' style, the text is clear and easy to follow. It does attempt to include some other visual formats for example diagrams and tables, and whilst it would clearly benefit from more, it would be a shame to see this happen at the expense of the text's level of detail which is clearly its main appeal in providing the reader with authoritative coverage of such a multi-faceted, ever-changing area.

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