

# Create Streets

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## **How rules in London are biased against infill street-based developments**

***In a hard-hitting essay based on his professional experience, the architect and member of Create Streets' network, Patrick Inglis, sets out his profound concerns about the ways in which planning rules, building regulations and local plans are piling cost and complexity onto small scale infill developments***

In the midst of a severe housing crisis, local, regional and national government policies are quietly piling cost, complexity and risk on to small scale infill development sites. This must stop immediately or the ambitious housing targets for the next few years will be missed by a considerable margin.

It is widely agreed that a substantial proportion of the required new dwellings over the next ten years will need to be delivered by small scale infill development. This is particularly the case in already highly developed locations such as London, where the Strategic Housing Land Availability Assessment (SHLAA) identifies four boroughs that are expected to provide over 50% of their housing from small sites including Richmond and Islington and a further six that are assessed as being capable of building over 5,000 homes on small sites. These latter boroughs include Lambeth and Hackney, where over 40% of all housing is expected come from small sites.

However, despite high profile national government attempts to remove red tape and lower costs in order to facilitate this type of development, the reality is that policy at all levels has been moving strongly in the opposite direction for a number of years introducing ever increasing barriers to the delivery of small scale developments. These policies are substantially increasing the difficulty of achieving planning permission for small schemes as well as hugely inflating their overall costs to the point that a substantial proportion will become unviable.

These anti-infill site policies have a number of drivers, but the primary ones are the desire to encourage large-scale house builders and also, in the case of local authorities, to milk development sites for freebies from cash for infrastructure to easy solutions to environmental problems such as flooding.

To illustrate the harm these policies are causing, it is worth looking at a case study of a small development site in inner south London in a borough with a high infill target. The site is a small piece of disused land at the end of a terrace of Victorian houses of around 125sqm. The tapering site is perfectly shaped to accommodate a small building that continues the existing terrace without any harmful impacts on adjoining properties. This is exactly the type of site that should be being developed to provide a much needed development of two or three one and two bedroom flats or a family home. This kind of development is highly sustainable and has minimal impact on

local services and is therefore deliverable in a relatively short period of time compared to large-scale development.

Unfortunately in reality, local and national policy conspire to make this site almost undevelopable.

Recent policy changes enacted in this London borough are typical of the local authority attitude and a good indicator of the direction of future travel of other councils around the country. The council adopted its new Local Plan in September 2015. It is therefore technically compliant with the Government's National Planning Policy Framework (NPPF), which was an attempt to loosen the shackles of planning in order to promote development, but actually does the opposite in regard of small scale infill sites.

This council's new policies attack infill development on a number of levels. They include measures that make it significantly more difficult to obtain planning permission, measures that make it much more expensive to apply for planning permission and finally measures that make the cost of construction vastly more expensive.

Take for example this borough's new amenity space policy. This requires flatted developments to provide 50sqm of shared garden space and then an additional 10sqm per flat. This may well be fine on large scale developments, such as those in Nine Elms, but in the instance of our case study, there is a requirement of 70sqm of amenity space for two small non-family flats (This has been interpreted by Planning Officers as a requirement for 35sqm for each 50sqm one-bed flat). This amenity requirement represents over 55% of the total site area and makes any flatted development on the site a non-starter on its own. The perversity of this policy is further highlighted by the fact that the requirement for two family homes of any size would only be 30sqm per unit and that applies to homes created by conversion, where the scope of providing amenity space is generally very limited on small sites.

The borough have also significantly increased the cost and complexity of actually making planning applications on small sites. The minimum requirement for our case study, over and above the traditional application form and drawings, now includes an Accessible and Adaptable Design Report demonstrating compliance with Building Regulations Part M4, a Sustainability Report, a Daylight / Sunlight Assessment, a full design and details of the weatherproof and secure cycle storage, a full design and details of the Refuse and Recycling Storage and a report demonstrating compliance with Secure by Design Standards.

The accumulated cost of preparing all these reports runs into many thousands of pounds (roughly £10,000 for our case study). This has a significant impact on the development equation and it is a cost that the developer must pay up front before they know they are going to get planning permission. These costs are particularly frustrating when many of them are unnecessary or could be conditioned for discharge after planning permission has been granted rather than being front loaded as an at risk cost.

The requirement for an Accessible and Adaptable Design Report demonstrating compliance with Building Regulations Part M4 is particularly controversial since the recent changes to the Building regulation were in theory designed specifically to *remove* this assessment from the planning application process and make it part of the Building Regulations approval process. However, as is sadly often the case, the attempt to remove red tape has in fact resulted in the doubling up of regulations, with the borough now demanding a compliance report at the planning stage for something that will then need to be complied with again in any Building Regulations assessment. In the example of our case study this needless bit of bureaucracy will cost in the region of £1000.

The last area of attack on small scale development sites and perhaps the most significant is the loading of huge additional costs on to the development through infrastructure contributions, affordable housing contributions and prohibitively expensive sustainability measures.

The introduction of the Community Infrastructure Levy (CIL) a few years ago was explicitly designed by central government, to transfer infrastructure costs from large developers to smaller ones. Whatever the merits of this idea in principle, in practice this flat tax in no way responds to the fact small scale development is inherently more expensive than large scale schemes and therefore less capable of supporting taxation. Additionally, on larger sites, where viability assessments are necessary to justify affordable housing contributions, the cost of CIL or other contributions can be offset against the provision of affordable housing (and are subject to lengthy negotiations which often result in schemes which deliver well short of policy-compliant levels of affordable homes). This is something that planning officers are rarely willing to accept on small sites

When it was first conceived the government envisaged that CIL would be a small tax that would have little impact on viability, but of course what is happened in practice is that local authorities have taken the opportunity to add a substantial tax to any development with rates for new residential space often over £200/sqm in central London. (Camden have been the most explicit in taxing small developments, despite expecting them to provide over 40% of new houses, with a CIL rate for developments of fewer than 10 units of £500/sqm, which equivalent to roughly 25% of the construction cost). In the case of our case study the CIL cost for three flats would be a little under £10,000.

Local authorities are increasingly looking for affordable housing contributions on small sites. For example, Lambeth's recently adopted policy on this requires a cash contribution for all new minor housing developments sufficient to provide the equivalent of 40% affordable housing offsite. This is obviously a very significant cost indeed and one that will render a large proportion of small infill development sites unviable. The council will argue that you can carry out a viability assessment to reduce this cost, but the cost of the assessment itself is very significant at a minimum of over £5,000 for even a simple assessment, with no guarantee that the argument will be successful in reducing the contribution.

This is not to argue that, in the current system, there is no responsibility for developers to help fund infrastructure. However the way it is currently being run

serves to make small scale infill sites harder to develop above all by smaller developers without access to deep funding pockets. Is offering barriers to entry to small firms on modest street really the intent of central and local government?

*Patrick Inglis co-founded IBLA in 2000 and is one of its three directors. He is responsible for new business and practice management. After completing his Diploma at Cambridge University, Patrick worked at ORMS Architects, and then as a Senior Designer at 20/20 Ltd, a leading design and strategy consultancy. He is a Council member of the Association of Consultant Architects (ACA) and of the Create Streets network.*