



MARKET VS PLANNING

IS DEREGULATION THE ANSWER?

LSE RUPS
REGIONAL AND
URBAN PLANNING



LSE 2016

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THIS REPORT IS THE PRODUCT OF FUNDING PROVIDED BY THE RICHARD ORAM FUND AND THE SUNTORY AND TOYOTA INTERNATIONAL CENTRES FOR ECONOMICS AND RELATED DISCIPLINES FUND (STICERD). THE USUAL DISCLAIMER APPLIES.

WE WOULD LIKE TO THANK ALL OF OUR INTERVIEWEES WHO CONTRIBUTED GENEROUSLY OF THEIR TIME AND EXPERTISE TO OUR RESEARCH. WE ARE GRATEFUL TO OUR CO-RESEARCHERS ROMOLA SANYAL AND MARA FERRERI. WE WISH TO THANK ERICA PANI FOR HER INVALUABLE ADVICE ON THE VALUE APPROACH TO PLANNING AND ALAN MACE AND FANNY BLANC FOR THEIR DAILY SUPPORT AND ADVICE.

EXECUTIVE SUMMARY

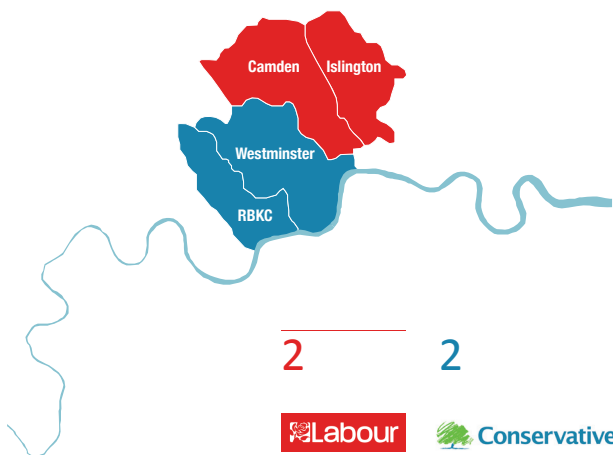
For 30 years planning has been attacked both rhetorically and materially in England as governments have been increasingly trying to deregulate the profession and liberate the free market. This report examines two new moments of planning deregulation. These are the loosening of regulation around Short-Term Letting (*STL*) in London and the new Permitted Development Rights (*PDR*), which allow for office to residential conversion without the need for planning permission. Whilst these may be viewed as rather innocuous or unthreatening reforms on the surface, we argue that the incursions directly and profoundly illustrate how planners are often trapped between their legal duty to promote public values as dictated by national planning policy and the government's desire to set markets free. The question then is how a regulatory profession like planning would be able to promote public values once it is deprived of the very tools it needs in order to achieve this goal.

INTRODUCTION

Over the past 40 years successive Governments have sought to reshape planning, moving it away from its roots of public interest, local context and discretionary decisions toward more growth based paradigms which rely on deregulation and market forces (Allmendinger, 2016; Muldon-Smith and Greenhalgh, 2016; Rydin, 2013). These waves of reforms have led planning to be viewed as an easy target that can be reformed by each in-coming administration based on their own notion of how market and societal values interplay.

Through our research we have examined two recent moments of planning deregulation. These are the loosening of regulation around Short-Term Letting (STL) in London and the new Permitted Development Rights (PDR), which allow the conversion of office to residential use without planning permission. Whilst these incursions may be viewed as innocuous reforms, we argue that this wave of deregulation moves beyond a mere rhetorical attack on planning and further solidifies an antagonism between the market and regulation. The values and the principles on which planning was traditionally based are now compromised, if not definitively lost. Planning, the regulatory profession par excellence, is ironically deprived of the main tools it has in order to promote the public values it has been asked to achieve.

Our empirical work is based on the in-depth analysis of policy documents and interviews with planning officers in four Inner London boroughs: Islington, Westminster, Camden and the Royal Borough of Kensington and Chelsea (RBKC).



The partial deregulation of STL and the deregulation of office to residential use were heavily sold as excellent ways for making the market flourish. However, these deregulatory moves meant that planners' statutory duty to promote vibrant local economies and affordable sustainable housing was increasingly difficult to achieve.

Our interviews have highlighted how little, in both cases, the rhetoric used by the Government matched reality, illustrating how wide the mismatch is between the future envisioned by politicians and the apparently unforeseen consequences of these policy adoptions.

PDR: UNDERUSED OR UNDERVALUED OFFICE SPACE?

The discourse around the relaxation of office to residential conversions via PDR used both the language of limiting regulation and the bipartisan consensus about the housing crisis. Here again planning is seen as a constraint on benevolent market forces. A move toward a “swift and responsive” system is favoured to one that attempts to manage land use with the goal of creating economically, socially and environmentally cohesive communities.

Whilst the press releases and statements made by the Government all referred to reactivation of underutilised or disused office space, the reality was quite different. Nowhere in the regulation was there any provision to distinguish between redundant and viable office space.

Moreover, conversions made via PDR no longer require planning permission but simply pass through the prior approvals system, giving to planners the right to intervene just in extreme circumstances. The idea that Local Authorities could no longer deny an application to convert office space to housing, where their evidence suggested a real demand for it, was viewed as restrictive and as an unwarranted incursion on their ability to plan. Clearly, the loss of employment land concerned all the local authorities we interviewed, as each faced significant loss of office space.

Why did conversions prove so popular? In Inner London, where housing values are extremely high, the developers can easily see an

PDR, UNDERUSED OR UNDERVALUED OFFICE SPACE?

uplift of over 100%. Moreover, the fact that those conversions are not subject to affordable housing targets or planning obligations (Section 106) further increases profits.

“

Well, the changes do significantly impact in terms of getting the right proportion of housing, affordable housing, and the quality of housing, and also in terms of making sure that we are keeping our economic activity alive”



Camden Planner

SHORT-TERM LETTING AND THE FEAR OF CREEPING CONVERSIONS

Prior to March 2015 short-term letting was prohibited in London unless householders applied for planning permission. Whilst this policy may be viewed as overly restrictive, it was based on the fear that, given the popularity of London as a tourist destination and the pressure the capital felt on providing permanent housing, allowing short-term letting could lead to a “creeping conversion of residential dwellings to hotel accommodation” (*HC Deb (1982 -23) cc1035-63: <http://hansard.millbanksystems.com/commons/1982/may/13/greater-london-council-general-powers-no-1>*).

This regulation was broadly supported by central Government up until 2015 when the Conservative Government took power and announced its “red-tape challenge” designed to remove unnecessary burdens from business and make the lives of ordinary Britons easier.

STL regulations were seen not only as detrimental to London’s tourism industry but also as a break on its residents’ ability to earn extra income. Discourses around the loss of permanent housing units and pseudo-hotel accommodation were muted, if not absent, in favour of the language of hard-working families enjoying the production of extra income from their assets.

“ There is strong evidence that we are dealing with a business use of a property rather than this "mythical" hard-working family that is earning a few bob when they're on holiday. Well, you know if a hard-working family can afford a three-month holiday then they are very hard working! ”

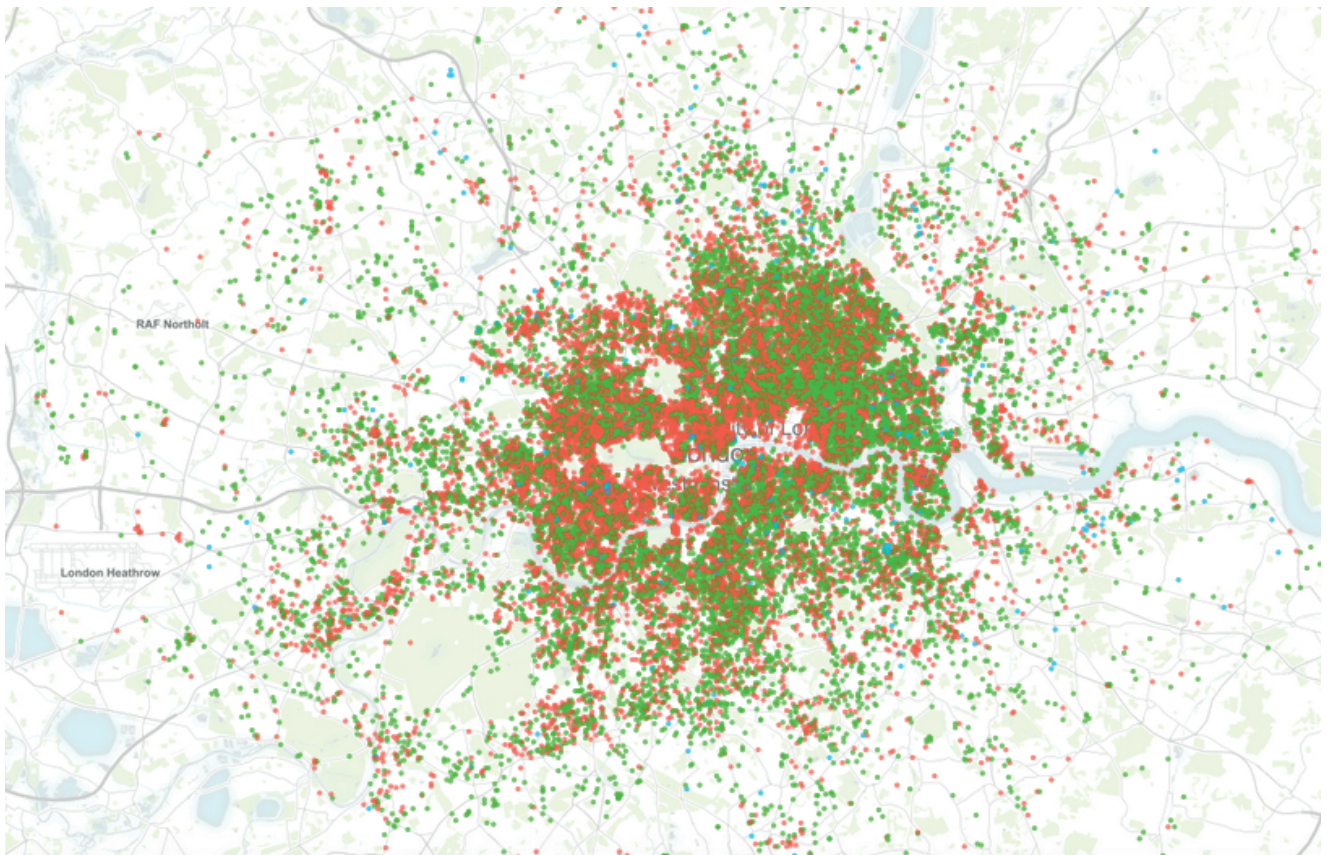


Westminster Planner

Although the language of housing crisis was used in part to justify the change in PDR, the deregulation of STL in the capital was promoted almost exclusively as a way for freeing up the economy and limiting unnecessary bureaucracy. The rhetoric used by the Government did not substantially differ from that used by companies like Airbnb, where families are shown renting out spare rooms in their homes and welcoming foreign travellers into their homes. Despite this dominant discourse, the work done by the STL team in Westminster, the research undertaken by Murray Cox (InsideAirbnb, <http://insideairbnb.com/london/>) and by Tom Slee (<http://tomslee.net/>), indicated that the reality was not so straightforward nor innocuous.

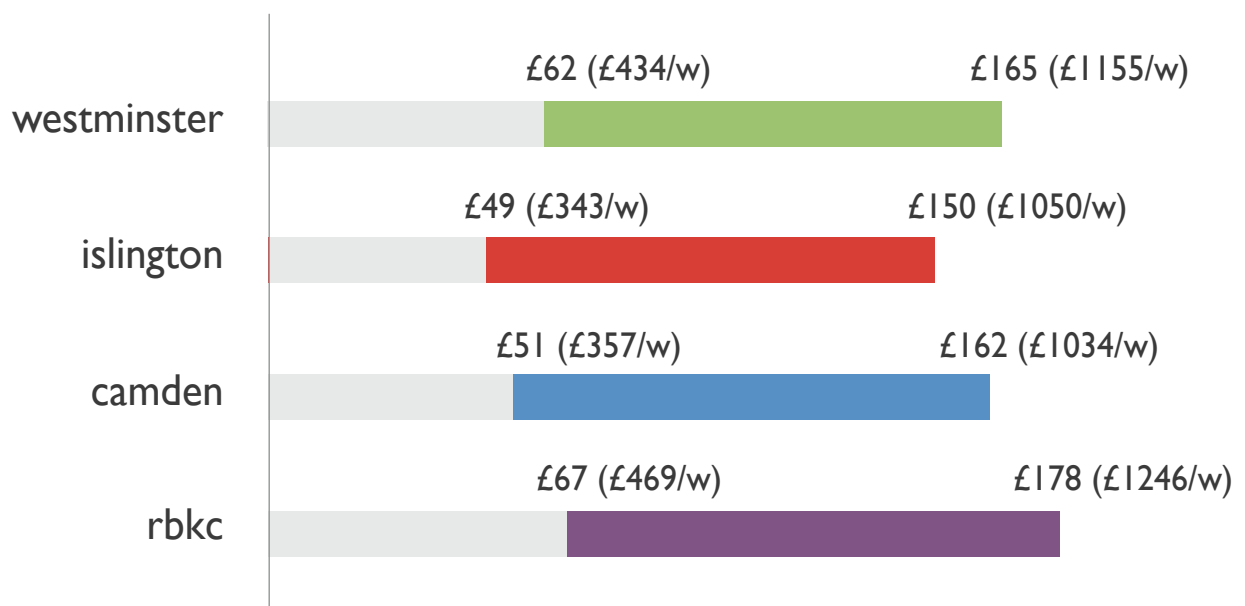
InsideAirbnb

<http://insideairbnb.com/london/>



PRS vs STL/prices

Median price/day [price/week] PRS vs STL for a 1bed-flat



Source for all rental data: <https://www.london.gov.uk/priorities/housing-land/renting-home/rents-map>. Source for indicative prices for Short-term letting: www.airbnb.com

The potential profit that can be made renting on a short-term basis is far higher than traditional letting. Moreover, the ability for councils to monitor and enforce the 90-day rule is severely constrained by the way in which the policy has been drafted, as there is no register or mechanism for the Council to know when a property is being let on a short-term basis.

“ Some of the properties that we have been researching can be around £200 a night – and obviously it depends on whether you're taking it for just one night or a week. No monthly rent no matter how high can compensate for that... ”



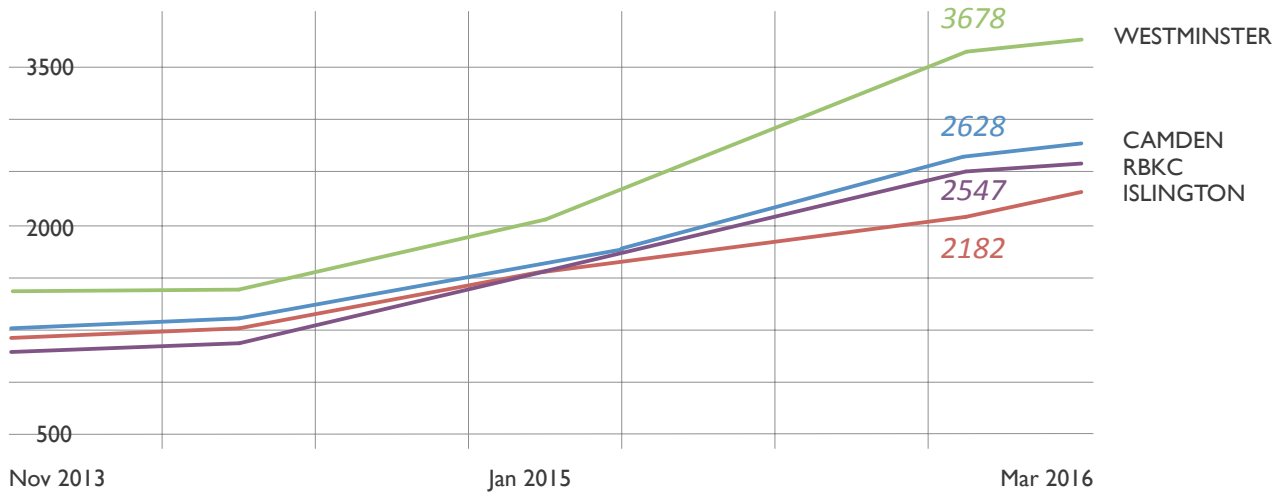
Islington Planner

If, in theory, renting a room or a house on a short-term basis should not constitute a loss of permanent dwelling stock, the evidence would suggest that many properties are being used exclusively for the purposes of STL. Turning now to the numbers for our four boroughs we can see why these fears may well be founded.



Listings

Number of properties listed on Airbnb by borough
(Nov 2013 - Mar 2016)

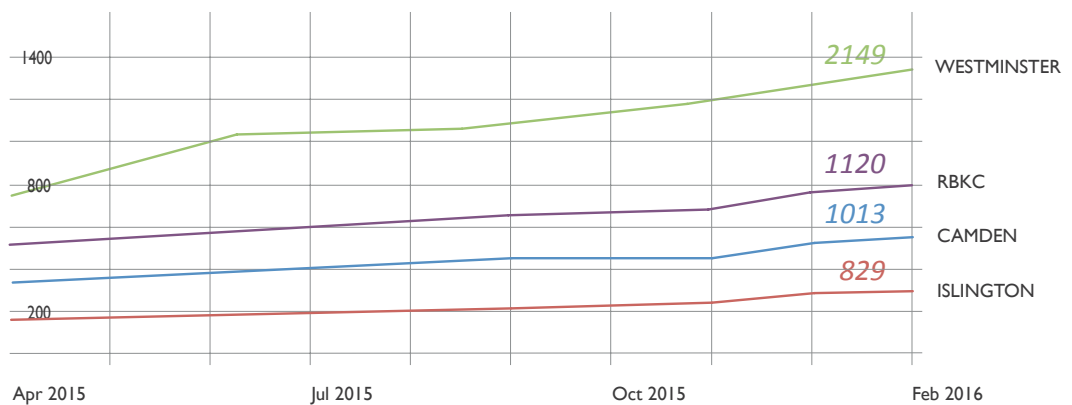


Multi-listings

Number of properties that are considered multi-listings
(hosts that list more than one property)

37.8 %

53 %
43,7%
45,2 %
32%



Source: <http://insideairbnb.com/london/>

Even if limited to the rental platform of Airbnb, these figures help indicate the growth of the uptake of STL in each of the four boroughs. Given the scale of listings we can also see why enforcement of the 90-day rule, as predicted, is problematic.

One reason for this is the nature of the English planning system, which is reactive rather than proactive, relying mostly on the general public to report breaches (Harris, 2013; Holman and Ahlfeldt, 2014). Even in Westminster, a borough that has a large historic problem with STL and where a dedicated team of 6 officers regularly goes into the field to detect infractions, the role of the community was indispensable.

“There might be a lot of short-term letting happening, but if it's not causing a nuisance, so we don't probably know about it. So although we may not be suffering in terms of amenity, we might, without realising it, be losing a lot of our permanent housing stock because it doesn't strictly need permission.”



RBKC Planner

COLLECTIVE RESISTANCE AND THE LACK OF RESPONSE

This leaves London planners in a difficult position, with respect to both STL and PDR. On one hand, Government enjoins planners to ensure a sufficient supply of land for housing and employment, on the other, the tools they have to prevent loss of this land are strictly curtailed in favour of market-based policies. This left many of our councils reflecting on how little scope this gave them for delivering their statutorily mandated local plans.

One might ask then, if the consequences of freer STL and easier PDR were so clearly problematic, why London's planners did not propose an alternative through an organised and concerted act of resistance? In both instances the London boroughs, joined by the Greater London Authority (GLA), offered alternatives to the deregulation efforts. Despite this collective lobbying exercise against the deregulation of PDR, central Government paid little attention to the arguments raised by the Councils and the GLA. After a long negotiation that saw the GLA and the inner boroughs (regardless of political stripe) lobbying for an exemption, a relatively small area of Central London was exempted from PDR and no concessions were made for STL.

The worry that statutory obligations were being eroded and local plan policies put in jeopardy, despite clear evidence and opposition from local planners, was also clear in the discourse around STL. The lack of any notification process made enforcement almost impossible, depriving them of the discretion to pursue cases where there was a clear nuisance and an obvious business of STL occurring. Exemptions appear to be difficult to obtain and may only be applied to individual properties rather than to areas or streets.

Maps showing the areas exempt from PDR



CONCLUSIONS

As our empirical material has clearly highlighted, the boroughs have been left to resolve conflicting requirements: on one side they are required to provide housing, employment and sustainable development, on the other hand, they have been asked to enable the market to flourish in its constant quest for profit. By virtue of this paradox, planners find themselves in the middle of an insoluble equation, where a gradual dismantlement of their main operative functions, combined with the coexistence of conflicting values, has rendered them, at least partially, impotent. Previously attacked rhetorically, finally hit materially, planning therefore faces a phase of reconstruction that undermines its *raison d'être*.

However, this research wants to go beyond a mere description of the impacts of neoliberalism on the regulatory apparatus of the English planning system, being aware that this approach would inevitably prevent us from setting up more constructive contributions and feasible alternatives.

There is no reason why both planning and market values cannot be mutually constitutive and supportive (Holman and Ahlfeldt, 2015). The extension of PDR from office to residential, tied to only truly redundant office space and coupled with planning obligations and affordable housing targets, could have supported the market by making conversion easier still being consistent with local plan policy in ensuring and supporting “a strong, responsive and competitive economy”.

Likewise, the relaxation of STL could have been accompanied by a number of strategies able to contain its negative effects on the private rented sector in the capital. A simple register to mark the number of days a householder rented in a calendar year could have been provided. Leaving to Councils the discretion to exempt either some areas or buildings, could also have helped contain the worst aspects of STL whilst still allowing the average householder to rent out a spare room in their home. London could have followed Paris and banned multi-listings where one 'host' lists multiple properties. A form of local taxation and security checks should be made compulsory and, finally, starting a continuous cooperation with platforms such as Airbnb could have proved helpful. None of these reforms and requirements would have been likely to damage the normal homeowner so typified in the language of the legislation or the advertisements found on sites like Airbnb.

The suggestions listed above are just some of the changes that a city like London might adopt in order to avoid a mere market oriented approach to these issues. We believe that some forms of relaxation of both PDR and STL were not intrinsically bad, although, a more watchful regulatory framework, more attentive to the requests made by Local Authorities and to the experiences that other cities around the world have been undergoing, would have been extremely beneficial. A phase of experimentalism, attentively monitored, would allow us to determine the degree of regulation that best fits London in this particular economic contingency. We share the opinion that a restrictive approach, especially if based on obsolete and pre-digital laws, will be anachronistic and inappropriate for both an economic and social sustainability. On the other hand, regulation is inescapable: a mere laissez-faire approach, often identified as a panacea, has proved to be not only

detrimental for society but often ruinous to the market itself. There is therefore the need to go beyond the dichotomy of a free market on one side and tighter regulations on the other, by re-considering “planning regulation” as a proper tool able to protect the market by ensuring the so-called “common good”.



For further information:



WORKING PAPER (submitted to EPA, under review):

Holman, N., & Mossa A., (2016) *Planning, values and the market: Do we know what we really want?*



BLOG:

Market VS Planning: is Deregulation the answer?

<http://lse.londonhousing.org/2016/10/market-vs-planning-is-deregulation-the-answer-blog/>

MEDIA

PODCAST:



London Borough Planners Focus Group Meeting:

***Planning Deregulation in London* (28 June 2016, LSE; 57 min)**

<http://lse.londonhousing.org/2016/10/london-borough-planners-focus-group-meeting-planning-deregulation-in-london-podcast-57-mins/>

VIDEO:



***Discussing Planning Deregulation in London: Office Conversions and Short-term lettings* (13 min)**

<https://www.youtube.com/watch?v=cKbcbNKIays>

ANIMATION VIDEO:



***Enforcing the unenforceable: the hard work of two enforcement officers in London* (3 min)**

<https://www.youtube.com/watch?v=QGo29ZNOFgl>



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