

London Assembly Planning and Housing Committee

Public Space Report

Combined Feedback Received

Investigation: "Public space in private hands - managing London's public space"

Contents

Feedback Reference Number	Organisation	Page Number
PPSFB001	Anna Minton	2
PPSFB002	Community Matters	3
PPSFB003	Professor Matthew Carmona (UCL)	5
PPSFB004	Living Streets	6
PPSFB005	inmidtown	7
PPSFB006	Mayor	8
PPSFB007	London Borough of Bexley	9
PPSFB008	City of Westminster	14

Comments on 'Public life in private hands: Managing London's public space.'

Anna Minton

General comments:

1. I am surprised that the Mayor's Manifesto on Public Space receives only a passing mention in this report. My understanding is that the Mayor's Manifesto is a statement of the Mayor's policy with regard to public space and I would therefore have expected that the Manifesto would be the starting point for the review. In that report the Mayor explicitly states that local authorities should continue to adopt streets and public places.

Instead, the starting point for this review is a tacit acceptance that local authorities are often no longer responsible for newly created public realm, in part due to a lack of resources.

2. The clear implication of the report is that in times of fiscal austerity budget pressures will mean that local authorities will find it difficult to continue to be responsible for public space. This contradicts the policy set out by the Mayor's manifesto.

Evidence base:

3. While the contrasting views of a number of academics are briefly mentioned a large number of the case studies examined in the report are based on the work of Matthew Carmona, professor of planning at the Bartlett. Professor Carmona is one of the few people who has undertaken a study of public space in London, but he is also known to be sympathetic to the growing privatisation of public space. The evidence base relies too heavily on the work of one academic, who is not too concerned about the dangers posed by the growing privatisation of public space.

Recommendations:

4. With regard to Supplementary Planning Guidance on the public realm, any guidance should have as its starting point the Mayor's Manifesto on Public Space which makes clear that local authorities should continue to adopt streets and public places.

5. Agreements reached between developers and local authorities on access and behaviour in public space would effectively mean that democratic rights in the city become conditional on the say so of developers. Privately owned 'public' space tends to prohibit a range of activities, from filming and photography to political protest. There is a very fierce academic debate on this topic and a wealth of material, however this area of discussion is not mentioned in the report.

PPSFB002 Community Matters

Community Matters Response to Public Space in private hands

Recommendation 1

The Mayor should consider developing Supplementary Planning Guidance (SPG) on the public realm once the Draft London Plan is adopted. This should take (draft) policy 7.5 (Public Realm)¹ as its starting point and set out:

- the importance of public spaces and what is expected from them in principle;

In Agreement

- clear guidance on how boroughs could approach the provision and design of public realm, what desirable minimum standards are in terms of access and use, and how subsequent management responsibilities can be negotiated between boroughs and developers;

Minimum standards regarding accessibility for disabled people has limited effect on improving the life of disabled people? There should be a requirement that all new builds are fully accessible to above minimum standard. There should always be consultation with the disabled community.

- model planning and legal conditions;
- model clauses for Section 106, Community Infrastructure Levy (CIL) and similar agreements that boroughs can make use of where needed; and

Community Infrastructure Levy: Examples of possible bad practice should be given for local authorities to understand that unacceptable developments should not be given consent just to unlock incentive payments, and a matter can only be considered material to a planning application if it relates to the development and use of land, and to the merits of the application under consideration. The amount that a developer is prepared to pay should not distract from the merits of the development.

- The benefit for boroughs of entering into these negotiations at the earliest point in any development application.

Each borough should monitor the loss or growth of public space that is used as community spaces for example Community Halls/ used for social action and land that can be used for growing food

Social need for space from both a community and Local Government perspective should be decided on well in advance of development applications. The planning application should be decided by both the assessed need that had earlier been identified and also by negotiations taking place at the earliest stage in any development application.

There also need s to be full options appraisals, and members of the public should be able to challenge the options that are put forward, with there being a means of requesting that the options should be looked at again, and other suggested options put forward

Recommendation 2

To assist the implementation of the Mayor's priorities for London's public realm (policy 7.5) boroughs should be mindful, when preparing their LDFs, of:

- how public space is to be managed in any significant schemes; and

Guidance should be given that encourages that the community being given first refusal for the management of public space (if the opportunity comes up) with the Local Authority providing support when and if necessary. Some Local Authorities are insisting that community take on the management of community centres or halls, or else they will be disposed to the private sector. Communities should not be forced to manage public space; however where the space is still needed or wanted by the members of the public, the local authority should continue to manage it.

- How they will engage the community in both the design and the on-going management process.

In agreement

Recommendation 3

The Mayor should encourage boroughs to draw up meaningful written agreements with developers that secure the highest possible level of public access to managed public spaces in new developments, whether they are in public or private ownership. This would help boroughs ensure that their policies relating to public space management are taken forward into the implementation of schemes.

A check list should be provided to Local Authorities that prompt them to consider if the restriction of open space would have a detrimental affect on the local neighbourhood. Public space is more and more recognised as an essential ingredient to the

¹ Ibid.

sustainability of cities for social, economic, and ecological reasons. The restriction of access could have a knock on effect on neighbourhoods; there should be a mechanism to monitor how residents feel having limited access.

The Mayor should take the opportunity to reinforce the importance of written agreements through his comments on strategic applications received by boroughs, or in the rare occasions when he acts as the Local Planning Authority. Where useful, he should promote the application of guidance from any new Public Realm SPG.

In agreement

The Mayor's comments on strategic planning applications should indicate where this requirement has been necessary and he should assess the impact of this recommendation at the end of the first year of the new London Plan's adoption.

In agreement

Comments supplied by Sharon Matthew. London Regional Manager (Community Matters)

PPSFB003 Professor Matthew Carmona (UCL)

From: Carmona, Matthew

Sent: 31 August 2011 14:30

To: Alexandra Beer

Subject: Re: Feedback on London Assembly's report: Public space in private hands - Managing London's public space

Hello Alex

I didn't respond earlier as I felt the report was pretty well balanced with a solid set of recommendations that I would support. Well done on producing this!

all the best

Matthew

PPSFB004 Living Streets

From: Tom Platt

Sent: 31 August 2011 17:04

To: Alexandra Beer

Subject: Living Streets Feedback on London Assembly's report: Public space in private hands - Managing London's public space

Dear Alex,

Thank you for inviting Living Streets to respond to the Committee's report, "Public space in private hands - Managing London's public space". Having contributed to the London Assembly's Investigation into the management of publicly accessible space in London we appreciate the opportunity to respond to this report.

On the whole we welcome the report and its recommendations and support its call on the Mayor to develop new planning guidance and encourage boroughs to agree principles for the management of public space in new developments at an early stage and to engage with local people about the plans. We have one specific suggestion:

Recommendation 2

While we are pleased to see this recommendation's request for boroughs to consider how public space is managed and how the community is engaged, we feel the wording here could be stronger. Combined with the fact that many boroughs have already completed their LDFs there is a danger that the good intentions of this recommendation fall short of what is necessary to ensure these important measures are taken up at a local level. We would suggest that 'boroughs should plan, within their LDFs or in supplementary planning documents, for how publically accessible spaces will be managed and how they will engage the community in both the design and the ongoing management of such spaces'.

Kind Regards

Tom Platt
London Coordinator
Living Streets

PPSFB005 inmidtown

From: Info

Sent: 09 September 2011 17:30

To: Alexandra Beer

Subject: Public space in private hands- Managing London's public space: consultation response

Dear Alexandra Beer

Thank you for your letter dated 29th June 2011 seeking the comments of inmidtown, the BID for Bloomsbury, Holborn and St Giles, on the enclosed document.

We welcome the report's recommendations. In particular, the recommended development of SPG on the public realm is to be supported, as the provision of London-wide guidance would offer a framework for negotiation currently absent.

We consider the report offers a timely and valuable review, with a insightful range of case studies.

I look forward to being updated on the Committee's decisions.

Yours sincerely

Ms Tass Mavrogordato

Chief Executive

Inmidtown

PPSFB006 Mayor

Dear Jenny

Re: Public space in private hands - Managing London's public space

Thank you for your letter of 1 July asking for my views on the report that was recently published by the Planning and Housing Committee into the private management of public space. I understand that you have also written to the Deputy Mayor for Planning, Sir Edward Lister. This response is a joint one from both of us.

In my Manifesto for Public Space *London's Great Outdoors*, published in November 2009, I wrote, "There is a growing trend towards the private management of publicly accessible space. Where this type of 'corporatisation' occurs, especially in the larger commercial developments, Londoners can feel themselves excluded from parts of their own city. This need not be the case". One way in which this can be achieved, illustrated in the Manifesto, is for London's Boroughs to adopt the new space, making it truly public. I was "disappointed that the report by your Committee did not adequately examine the opportunities provided by this approach and the obstacles that may exist to pursuing it. In my view it is in principle the right way forward and I hope your Committee will return to it soon.

Turning to the three recommendations you draw my attention to in your letter, first, there are no current plans to develop Supplementary Planning Guidance (SPG) specifically on the issue of the private management of public space. However, there will be opportunity for this issue to be covered in the SPG that will be produced on Shaping Neighbourhoods. This will identify and promote examples of good practice (including adoption by the Boroughs) in this field through case studies and will encourage Boroughs to work together and share their experiences. Work will begin later this year and there will be an opportunity for interested parties, including the Housing and Planning Committee, to have input during" the consultation period. I would also like to draw your attention to the policies in chapter 7 of the recently published London Plan which state that public spaces should be inclusive and accessible.

With regard to the second recommendation, on Local Development Frameworks, I support the view that local authorities should be mindful of how public spaces will be managed and where appropriate engage with local communities when developing these management structures. Adoption by the Boroughs provides, of course, the most accountable form of management.

However, you will appreciate that it is not in the Mayor's gift to direct the Boroughs on this matter and so ultimately this will be a consideration for the individual authorities.

On recommendation three, again, it is not within the Mayor's powers to direct boroughs to draw up written agreements with developers and I would suggest that it is not always clear what legal basis such agreements have, if any. They would be heeded, in any event, only in cases where public space had not been adopted by the local Borough. Whilst I support the principle that public access to public space should be maintained to the highest possible level, the assessment of what that means in practice will need to be made on a case by case basis.

Yours ever,

Boris Johnson
Mayor of London

Bexley's response to London Assembly Report

Public life in private hands: Managing London's public space, May 2011.

20th September 2011

Overview

This London Assembly Report has been prepared in regards to a view that there is a growing trend in London towards the private management of public space, where through major development schemes, developers now incorporate spaces that are accessible to the public but not necessarily 'public' in legal terms. It seeks to examine the different approaches for managing publically accessible space in London and its positive and negative impacts. Within the report there have been three main risks identified regarding public space. These are:

1. That people's right to access public space is increasingly being affected and replaced by a privilege that can be withdrawn, restricted, regulated and controlled. This can have benefits such as increased security measures and cleanliness, although there is also a perception of exclusion from these spaces.

2. There is concern that, like some high streets, public spaces are in danger of losing their distinctive local character in cases where overly regulated and corporate management starts to turn the public realm into a sterile, unvarying environment. Another view is also that not enough thought is given to the design of public spaces and their subsequent management and upkeep.

3. There is a risk that the original civic meaning and importance of the public space could be lost. The public often assume that all public space is owned and managed on the public's behalf for the general good. Private sector developers do not necessarily share that assumption when they take control of public spaces.

The report sets out the findings of a review of the concerns above, considering evidence about trends in the management of public space and specific concerns relating to the management, as well as considering reasons for the trend towards private control (including public spending pressures, regeneration and property value). The report recommends that the Mayor should continue to provide leadership, guidance and direction to protect the rights of access to, and enjoyment of public space. It states that one mechanism available to reconcile the different requirements of the users and owners of public space is the planning system, which through the local authority can create and maintain a level of influence on any 'public' space, and the report makes a number of recommendations in relation to strategic planning advice.

Also contained within the report are a number of appendices containing further evidence and information. Appendices two and three of the report contain examples of a number of different management models split into private management / public management / voluntary management and mixed management schemes, and detailed examples of positive and negative public realm management in London and internationally. Appendices six and seven contains examples of local planning policies and site management frameworks and section 106 clauses relating to the public realm.

Analysis

The reports findings indicate that there are four main areas for action to improve the public realm in London and make it more accessible and inclusive:

- ☐ Planning policies and guidance
- ☐ Negotiations over planning applications and planning obligations
- ☐ The creation of management agreements; and

□ The involvement of local communities.

The report later sets out three recommendations for how the Mayor can assist local authorities in influencing urban development to strike a balance between public and private control and management of the public realm and these are discussed below:

Planning policies & guidance:

The report states that within existing boroughs planning policies it is unclear if boroughs are sufficiently aware of the potential negative impacts that could result from not addressing public space management at the onset of any discussions with developers. It is also mentioned that although many planning policies seek an accessible and inclusive public realm in principle – rarely does this objective translate into detailed planning conditions or agreements. Here there is a need to balance the quality of the public realm / open space and the maintenance liability of that space, where often higher quality materials will require less maintenance but would require more costs up front, which could affect the viability of the development. This is the balance that developers and local authorities need to agree on. Within Bexley's Core Strategy Submission document 2011, under policy CS17 on Green infrastructure there is a section stating that the council will protect, enhance and promote Bexley's green infrastructure by seeking opportunities to provide new open space and play space. It ensures that all new development, where possible makes a positive and appropriate contribution to green infrastructure, and where appropriate, the public realm, either through provision of new open space or through planning obligations. The reference to public realm here includes parts of the borough, whether publically or privately owned that are available without charge for everyone to use. More detailed development management and site specific policies will be developed in future DPDS.

Moreover, there are also existing relevant policies in the boroughs saved UDP, including environmental policy ENV39 and general policy G7 which both state how the council will seek to ensure that all new development is of a high standard of design and layout. Housing policy H3 on character also states that the council will ensure that the spaces around residential development and their hard / soft landscaping should be compatible with the local character or appearance and fulfil clear and useful functions. Bexley also has a Supplementary Planning Document 'Design for Living' (Adopted 2006) which includes a section on amenity space, and contains a number of principles covering a range of issues including maintenance. For example 'Adequate mechanisms and resources must be put in place to ensure the satisfactory future management of all communal spaces.' These all go to show that Bexley has a number of policies, existing and emerging that can be utilised in dealing with this issue,

Planning obligations and timing:

The report states that in order to achieve a balance between the design of any new public realm, and the future management and maintenance of that public realm, responsibilities and details of design, access and management need to be firmly established at the stage when planning permission is given and when the conditions under s106 are negotiated. Within this section the report makes reference to the fact that the main ways of setting out and securing specific arrangements related to a development at the planning stage is through planning obligations such as section 106, the emerging Community Infrastructure Levy (CIL) or through planning conditions attached to the permission. It should be noted that these three quite distinct methods are actually not quite as well integrated at this stage as the report suggests, and the report does not provide guidance into how these methods, particularly CIL can set out requirements.

In Bexley's Core Strategy submission document 2011, there is a reference under policy CS17 to contributions to green infrastructure and the public realm including the use of planning obligations, and that the borough has a planning obligations Supplementary Planning Document (SPD) that sets out requirements. The planning obligations SPD includes a section specifically on the public realm, which states that a development will be

expected to contribute to the improvement and management of the public realm to which it is most closely related, and that the importance of designing good, quality space between and around buildings can be achieved by promoting accessibility and improving public enjoyment and use of such areas. However there is a need to balance this with the viability of a proposed development, taking into account other s106 priorities to ensure any proposed development is sustainable and achievable.

Management Agreements:

As part of a s106 agreement or required planning obligations, a management agreement could help prevent inconsistencies overtime or at least provide a point of reference. The report states that any agreement should at least set out the basic expectations for the public space and be attached to the planning permission. The report states that the Mayor, local authorities and developers should consider an integrated approach and come to joint management agreements for the public realm at an early stage in the planning process where possible. The legal agreement for Kings Cross Central development is cited as a good example, which sets out the principles for the management of both the public realm and estate realm including maintenance standards and principles for inclusive design and defines permitted closures.

Bexley's Residential Design Guide SPD contains a number of principles relating to amenity space as part of any new development, and states that communal amenity space must be integrated into the design of developments from the outset, and that adequate mechanisms and resources are put in place to ensure the satisfactory future management of all communal spaces is planned for. Bexley has had experience of negotiation regarding the management of open space / public realm as part of new development. Issues encountered through this includes maintenance issues, particularly around the need for transparency of anticipated costs at an early stage in negotiations to highlight the maintenance costs for both the Council and the Developer. This can help to avoid pressure to reduce costs and standards of open space provision at a later stage. Another issue encountered is the emerging need to provide Sustainable Drainage Systems (SUDS) within new developments that would have additional access and maintenance issues, including potential increased costs. Other issues that have been encountered include noise, security, designing out crime, conflicts of interest (e.g. access for dogs vs. children, requirements for the young and old), alongside the need to create a safe, sustainable, practical open space.

Community Involvement:

Here the report states that early community consultation is vital to a successful outcome for public space management. Particularly in the case of existing spaces it is essential to ensure that the value of the space to the local community and its historic interest is identified, valued and used as a basis to introduce change or better management practices. However the report does make a mention of the difficulty during early community engagement in trying to avoid the interests of particular groups being crowded out by louder or more influential voices. There is also a risk here in terms of raising expectations and balancing community expectations with the viability of a proposed development. It is important to establish realistic and representative community aspirations, in order to ensure genuine and sustainable improvements are secured in terms of the public realm. It should also be noted that there is a need to recognise that good consultation can be undermined or limited if those involved have a limited or restricted understanding of the options and their associated impacts, this can stifle the use of new materials, products and maintenance regimes.

Page 33 of the report contains guidance for how boroughs can ensure public spaces are accessible and user friendly in the long-term and avoid unforeseen restrictions. Within this section it states that there should be specific planning policies addressing the management

arrangements for public space in private developments, ideally supported by practical guidance for implementation, and questions to consider regarding this including:

- Are there any current or future users of the area that have not yet been consulted?

- What restrictions may a developer want to impose on a site?
- Is the future management of the site specifically addressed in a draft planning permission or draft s106 agreement?

As discussed above these are all questions which should already be dealt with through existing planning policies, and reinforced through adopted and upcoming LDF documents including the development management and site allocations DPD.

As noted above section 4 of the report sets three recommendations stating how the Mayor can assist local authorities with this issue.

Recommendation 1:

The Mayor should consider developing Supplementary Planning Guidance on the public realm once the London Plan has been adopted, including clear guidance on how boroughs could approach the provision and design of the public realm, and how management responsibilities can be negotiated between boroughs and developers.

It is considered that there is not a need for the Mayor to provide detailed guidance on this issue, and that the Mayor is better placed to deal with more strategic issues, while local authorities should deal with issues such as this at a local level. This is particularly relevant in the context of the current localism agenda and the drive to help simplify the planning process. Also, along with the need to reduce the complexity of the planning process and speed up decision making – it should be noted that additional requirements and responsibilities will need to be balanced against constrained local authority resources, this includes the reference in Paragraph 4.20 that any potential new SPG could include guidance on the London Plan policy 7.5 requirement for the need to ‘incorporate local social infrastructure such as public toilets, drinking water fountains and seating’ which could further impact on local authority resources, and add to the complexity of the planning process.

Recommendation 2:

To assist the implementation of London Plan policy 7.5 boroughs, when preparing their LDFs should be mindful of how public space is to be managed in any significant schemes and how they will engage the community in both the design and the ongoing management process.

As noted above there is a need to ensure that community expectations are realistic and balanced with the need to deliver viable and sustainable new development that take the public realm and accessibility into account along with a host of other issues and requirements.

Recommendation 3:

States that the Mayor should encourage boroughs to draw up meaningful written agreements with developers that secure the highest possible level of public access to managed public spaces in new developments, whether they are in public or private ownership.

The report adds that this will help boroughs ensure that planning policies relating to public space management are taken forward into the implementation of schemes. It should be highlighted that there is a need to balance enhanced public access with community safety and residential amenity considerations and that one of the principal ways in which this can be achieved is through the good design of proposed spaces, which would help lessen maintenance costs and improve accessibility.

Overall the report places planning policy and strategic planning as the central tool in improving the relationship between public and private land, together with the importance of public consultation. However these recommendations need to be balanced against other drivers such as limited resources, viability issues, the streamlining and simplification of planning requirements and the management of community expectation. Please let me know if you have any questions on this document.

Regards
Michael Atkins
Graduate Planning Officer
LDF Team

PPSFB008 City of Westminster

Date: 20th September 2011

Dear Ms Jones

Response to "Public space in private hands - managing London's public space"

Thank you for sending me your report addressing current issues from the increasing involvement of the private sector in designing and managing public spaces. The issues you have recorded resonate with experience in the City of Westminster where consideration is increasingly being given to alternative means of funding and management of public space, due in part to financial restraint in the public sector.

Westminster City Council welcomes the premise for this report and the intention of its recommendations. Although we do have reservations as to the usefulness of a regional supplementary planning guidance on public realm management which could be too generic to be useful, we can see the value in sharing experience across London through a best practice 'guide. It would complement the superb body of evidence-based guidance which has been drawn together in recent years by Transport for London.

Response to specific recommendations:

Recommendation 1

The content of the suggested SPG is closer to a best practice guide. While it is important to develop policies to support public and open space management, this is more appropriately carried out at the borough level through its Local Development Framework. Setting "desirable minimum standards" in terms of access and use and setting out how "management responsibilities can be negotiated between boroughs and developers" is often site specific. Your report itself recognises that any London-wide guidelines and standards should be "available for each borough to use flexibly to take account of local character and need." For this reason, rather than go through the formal process of adopting an SPG which would in any event be very generic, it would be better to concentrate on bringing together and sharing best practice, which the report has begun.

Recommendation 2

The City of Westminster's City Management Plan will be sent out to consultation shortly. I am pleased that the plan does reflect the report's recommendation to address public space management and enable meaningful community engagement. The details of public space management are also reflected in the Westminster Way Public Realm Strategy, which is expected to be formally adopted shortly.

[[http://www3.westminster.gov.uk/docstores/publications store/Westminster Way Consultation Draft January 2011.pdf](http://www3.westminster.gov.uk/docstores/publications%20store/Westminster%20Way%20Consultation%20Draft%20January%202011.pdf)]

Recommendation 3

Physical provision of open space: is easily quantifiable while successful management is less so and may not become apparent for a number of years. It may be useful for some guidance or a checklist for boroughs to gauge successful management over time as a self-assessment with suggestions for ways to redress the balance if it has tipped.

Thank you again for sending the report and the opportunity to comment. I hope these thoughts are not too late to inform your next steps. i

Yours sincerely,

Rosemarie MacQueen
Strategic Director Built Environment