

Sustainability in Local Government

The “Merton Rules” - Are they going south?

As of this year over eighty per cent of FTSE 100 companies are producing stand-alone reports on corporate responsibility, sustainability or their environmental impact. Amongst this impressive group there are some committed green campaigners that have embedded green issues as part of their corporate social responsibility agenda. There are also some that have only ever seen these issues as part of a communications exercise and there is precious little evidence that small and medium sized enterprises have ever embraced the green idea fully if at all.

In good times sustainability was a wagon with a band, singers and even a juggler or two to keep them company. In a recession it is hard pushed to muster a tin whistle, at least amongst those who never were



convinced in the first place. Surely such commercial cynicism cannot be present in the public sector? Perhaps not, but the law of unintended consequences will always prevail!

The role of Local Government

Local Authorities in the UK have a key role to play in the promotion of sustainable buildings and sustainability generally. Since the London Borough of Merton adopted a radical requirement for new developments to generate at least 10% of their energy needs from on-site renewable energy in 2003 this

has been adopted by many other Authorities up and down the country and has become known as the Merton rule.

Under a sustained champagne and canapé attack from a building industry that could see dark clouds on the horizon, the Government appeared to be wobbling on its commitments to local power generation from renewable resources throughout 2007. Eventually, however, its draft planning guidance appeared to go even further than Merton.

Local authorities have been given increased powers to plan for and require decentralised energy generation. The draft planning policy statement (PPS) gives them increased powers to plan for and require either renewable or low-carbon energy generation. It also includes a power to use local development orders to provide permitted development rights for certain types of renewable installation, i.e. remove the need for planning powers in some cases.

The London Borough of Merton adopted a radical requirement for new developments known as the Merton Rule.

However, there are significant strings attached to this power – hailed by the Government as “Merton Plus” - as there is a requirement for a significant evidence base to justify any policies, and these policies must be tested through the plan-making process. These weasel words should be enough to delay the effective introduction of these policies significantly and could result in fewer local generation schemes overall – not what was intended at all.

The effect of EPCs

Meanwhile, as predicted, the arrival of Energy Performance Certificates (EPCs) has caused a certain amount of angst at a time when transactions have slowed to a trickle. From 1 October 2008 all properties - homes, commercial and public buildings - when bought, sold, built or rented have needed an EPC.

Building control and trading standards divisions of local authorities are responsible for ensuring that, when required, buildings have an EPC. As yet it is too early to assess whether the paltry fines associated with this legislation will prove an effective deterrent to non-compliance but clearly, it is seen particularly as an additional burden in a slow market.

Many investors, particularly those with prominent policies on corporate responsibility, are uncomfortable with these newly visible, and comparable, statements of relative inefficiency and are looking long and hard at whether they want to be seen to be owning such buildings. As there are not



enough green buildings to go around this might mean significant redevelopment of these portfolios to bring them up to standard. Unfortunately, this is much less likely in a recession when a larger number of buildings are likely to be standing empty and new tenants are a rarity.

Cue more legislative changes. Up to the end of March, landlords with empty buildings were entitled to empty rate relief reducing liabilities to 0% for industrial property and 50% for offices and retail premises. Since All Fools Day, landlords have faced full business rates bills for warehouses that have been

empty for six months, and for shops and offices that have been empty for three months. The industry response has been swift and brutal with millions of square feet of buildings that would otherwise have been let out on short terms at low rents to small

businesses being flattened to avoid paying rates. Hardly the intended consequence.

Mind you, demolished buildings have the virtue that, setting aside the energy embedded in their construction and subsequent removal, they no longer have a carbon footprint! Fewer buildings equal less carbon output and fewer businesses engaging in carbon producing work. Ergo it is greener all round.

It is no wonder the private sector is cynical!

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