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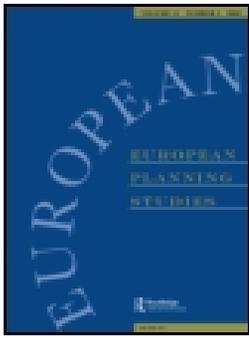
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Multiple land use planning for living places and investments spaces

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ABSTRACT

Planning is assessed not only based on its ability to improve the living environment through place making, but also based on its role in facilitating investments in the built environment. This paper approaches the combination of these functions as planning for multiple land use. Contracts, rather than plans, are used to bridge these functions. This concept of multiple land use is used to reflect on the contributions in this special issue on regulation of private sector involvement and property market dynamics in urban development. Questions for further research are raised based on the concepts of legitimacy, effectiveness and efficiency. These questions can also be used to assess current planning practice in which private sector investment and place making are combined.

KEYWORDS

Multiple land use; place making; investment; contracts; legitimacy; efficiency; effectiveness

1. Introduction

Planning agencies work on the one hand to improve the quality of places to live (Healey, 2010), while on the other hand they are assessed based on how well they facilitate investments in property development (Bunker et al., 2017; Schuetz, Giuliano, & Shin, 2018). Investments in property development can contribute to the quality of places, for example by resulting in good quality housing. Another – and possibly even the main – aim of private investment is the individual benefits for the investors. There is a long tradition of debate in the literature on conflicts between land speculation for individual gain versus urban planning for the common good (Weber, 1904; Lindeman, 1976; Balta & Eke, 2011; Alexander, 2014). This debate endures, as planning is not only driven by the realization of public works such as streets, parks and arterial access roads, but also by its effect on private investment in housing, industry, retail etc. Based on the assumption that planning documents are sound, Krajewska, Żróbek, and Kovač (2014) conclude the following: ‘Investment processes that strictly conform to the provisions of planning documents promote sustainable development and contribute to the preservation of spatial order’ (Krajewska et al., 2014, p. 65). However, in practice investments may not always

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conform with the plan. Without these private investments, development does not take place, and planning authorities attempt to fix this by creating alternative investment opportunities through alternative administrative means that ‘distort the spatial planning system’ (Krajewska et al., 2014, p. 65). The result of this focus on facilitating investments means that planning promotes ‘enhancement of a sense of belonging to a global place rather than to a specific one’ (Greco, 2018, p. 567). The functions of cities as places to live and cities as spaces to invest in can be mutually beneficial, but can also result in conflict. As these functions come together in the same area, connecting place-making for people and for investments can be seen as an agenda for multiple land use. Planning is assessed based on its performance on both agendas.

There is a difference between mixed land use and multiple land use. The idea of mixed land use is not new to planning. A traditional way to address spatial conflicts between different land uses is to use zoning to separate them. Alternatively, some specific areas have mixed-land use designations to foster lively neighbourhoods and benefits for both businesses and residents (Ferm & Jones, 2016). However, mixed land uses can also create inconveniences or even nuisance, not only directly, but also indirectly, for example due to increased traffic. Mixed use may also result in solutions in which sub-optimal outcomes are created, resulting in vacancies (Grant, 2002; Ferm & Jones, 2016).

The concept of multiple land use developed about two decades ago alongside the mixed land use concept (Louw & Bruinsma, 2006; Van Broekhoven & Vernay, 2018). Multiple land use is not a land use category, but ‘presents a concept of action, more than of content’ (Lagendijk, 2003, p. 83); it is about the creation of synergy between land use functions (Vreeker, De Groot, & Verhoef, 2004; Van Broekhoven & Vernay, 2018). According to Van der Valk, it ‘is a strategy to improve the efficiency of metropolitan land use’ (Van der Valk, 2002, p. 202). Efficiency is a quality that is traditionally attributed to the operation of markets in which investment may play a considerable role. The planning agenda to improve areas as places to live and as spaces for investment thus fits in the concept of multiple land use.

In the context of multifunctional intensive land use (Haccoù, Deelstra, Krośnicka, Dol, & Kramer, 2007) as analysed by Lagendijk (2003) and Louw and Bruinsma (2006), multiple land use is presented as something fascinating and innovative that can result in new ways to accommodate large numbers of claims on available space. Against this backdrop, from 2004 to 2009 the Dutch government supported a large knowledge innovation programme devoted to system innovation in spatial development that was specifically targeted at promoting multiple land use (Priemus, 2007). In this process, it was clear that the ‘development of multifunctional areas is more and more a challenge for public-private partners’ (Priemus, 2007, p. 1003) in relation to safeguarding public values versus profit seeking. De Jong and Spaans (2009) characterize multiple land use as a ‘trade off’ of tremendous complexity, as land uses are ‘spatially and financially intertwined’ (De Jong & Spaans, 2009, p. 371). Multiple land use also means that boundaries between separate activities must be crossed (Van Broekhoven, Boons, Van Buuren, & Teisman, 2015), which may result in new boundaries being erected between joint activities and other types of activities.

The set of papers in this issue points to a specific type of multiple land use. Planning nowadays must deal with this type of land use, even though it has not been previously analysed and evaluated as a question of multiple land use, i.e. the relationship between the use

of land as a place to live and land as a space for investment. This fits the concept of multiple land use in that both claims to land must by definition coincide in the same area. In this regard, however, land as space for investment is not a traditional land use category. This means that traditional planning instruments such as the designation of land uses only have an indirect impact. Contracts are an alternative instrument that planners often use to link the interests of planning and investment (Lai, 2010). Contracts have a planning function and may help to bring parties together in the interest of a specific project (Van der Veen & Korthals Altes, 2011). This means that analysing contractual relationships is a way to analyse this type of multiple land use.

The idea that spaces for investment are part of a planning agenda for multiple land use is debatable. Is it not just one of the ‘contradictions of neoliberal urban planning’ (Taşan-Kok, 2012), in other words the context in which planners must work? This may be so, but it does not rule out that such an analysis may provide novel insights that are relevant for the development of planning thought. Furthermore, there is a difference between mixed land use, which is a land-use category for specific urban areas, and multiple land use, which is seen as a new way of working that must be applied everywhere, and that includes biodiversity, for instance, as a function that must be accommodated in all areas (e.g. planning has a role in turning cities into better habitats for birds) (Snep et al., 2016). Just as biodiversity can be part of any planning agenda (and not only in mixed-use, peri-urban areas), land can also almost always be seen as both a place to live and a place to invest.

The current paper will evaluate the outcomes of the contributions to this issue. These contributions are analysed through the lens of developing a multiplicity of combinations of land use as living places and investment spaces (Section 2). This is followed by a further debate on the implications for planning using the criteria of assessment legitimacy, effectiveness and efficiency (Section 3). The results are then presented in the conclusion.

2. Reflection on the contributions in this special issue

The idea that planning works in a context of multiple land use – that cities are not only places to live, but are also places to invest – and that the aim of providing excellent places for investment are serving more and more as guides to planning is very prominent in the contribution of Raco, Livingstone, and Durrant (2019). The authors focus on understanding the quantitative and qualitative reasoning of investors and developers when making development decisions and on how they evaluate planning. Raco *et al.* indicate that planning policies are seen more and more these days as placing restrictions on the primary aim of the planning system in order to promote private investment initiatives. The study area is London, which can be considered as such an investment space to a far greater degree than the North of England, for example. Raco *et al.* study the attitudes of developers and investors towards the planning system and indicate the various ways in which the planning system is effective in promoting investment. The concept of multiple land use finds its expression on the one hand in the election of Sadiq Khan as the Mayor of London in 2016 based on a campaign to deliver more housing for Londoners, while on the other hand London is seen as prime space for investments. Moreover, public aims can only be reached through these private investments, as illustrated by the fact that affordable housing is usually provided through S106 agreements that involve developers getting planning permission under specific conditions including providing a specific proportion of

affordable housing (Morrison & Burgess, 2014). The global financial crisis significantly impacted investment conditions and new affordable housing production had been reduced, indicating the large public risk involved in relying on market production. This shows the multiplicity of land uses as both investment space and living environment, the interrelationships between these functions, and the issue planning has with this multiplicity, with contracts providing a tool for linking these domains and analysing them. Respondents show an ‘ambivalent and at times seemingly contradictory’ (Raco et al., 2019) attitude towards planning. Raco *et al.* furthermore show that good planning is beneficial for producing spaces for investment. Planning provides certainty for building opportunities, but must also ensure proper services (by providing utilities) in new locations, which is often an issue. The certainty planning provides may also slow down processes, but the overall assessment of investors and developers is positive.

The contribution by Refinetti Martins, dos Santos Pereira, and Bittencourt (2019) analyses a large variety of multiple land uses in Brazil, including the practice of *solo criado*, the creation of extra building opportunities on an existing plot of land, adding additional strain to public areas that are not improved and may not have the capacity to accommodate extra activities. Cities as São Paulo and Rio de Janeiro, are, just as London, exceptional contexts: metropolitan centres that differ from other areas based on specific economic and institutional conditions. In São Paulo, urban regeneration projects follow a ‘business logic’ which impacts social aims negatively and has contributed to a separation of discourse and practice. The discourse on public interest is not reflected in what happens on the ground where, basically, the unequal society of Brazil is reflected in its urban operations. In balancing the multiple functions of land, the investment logic is prevalent to the logic of enhancing the living quality for current urban communities. This dominance of land as investment space means that the Brazilian practice studied by Refinetti Martins *et al.* does not hold to the principle of multiple land use.

Legitimacy, or more precisely, accountability, is the topic of the article on Dutch urban regeneration. Taşan-Kok, van den Hurk, Özoğul, and Bittencourt (2019) consider that contracts establish accountability regimes in projects in which both authorities and private sector actors participate. They observe a shift based on an analysis of twelve contractual relationships between private and public actors. Local authorities have a larger role in older contracts (for example in land assembly) than in more recent contracts where private parties have a larger role. This shift in roles also involves a shift in task accountability among the actors. Remarkably, the authors note that the accountability relationships are not very strong between public and private actors and that the ‘tools and mechanisms’ for democratic accountability are rather weak (especially compared to the contractual relationships). This suggests that multiple land use may result in a separation of the actors involved from a community of critics who can hold actors accountable for their interventions.

In the contribution by Atkinson, Tallon, and Williams (2019), urban regime theory (based on Stone, 1993) is used to analyse case studies in the West of England. Atkinson et al. (2019) indicate that actors form a ‘temporary entrepreneurial urban regime’ around a project. Thus the multiple land use of localized place making and creation of investment space is institutionalized in a temporary urban regime ‘bound together by a mutual self-interest in developing the site’ (Atkinson et al., 2019). In the case studies the relationships between actors are mapped, showing that the relationships became

less complex during the process. The multiplicity of interests seems to be funnelled in a process resulting in fewer partners. The Bristol Harbourside project has public aims of place making and is a space for private investment, but there were questions relating to its success at adding public qualities to the area. Most notably here is that the urban regime around the project disappeared at project completion. In another case study in the city of Gloucester, the developer was aiming for a longer commitment of 25 years to stay involved in the project, which had an impact on the urban regime created around the project. The temporary urban regime is thus a way to organize multiple land use for making places and spaces for investment, and the regime's development depends on the investment strategy of private partners.

A common thread among the papers suggests that the choice of developer is highly relevant to public authorities. Conversely, it is essential for private partners to cultivate good relationships with public authorities to ensure that they are seen as reliable counterparts. The importance of relationships as assets is very much in keeping with the concept of multiple land use. This underscores process quality as an important feature of contracts for multiple land use. These are not quick and/or opaque deals, after all, but ongoing relationships meant to endure.

3. Questioning legitimacy, effectiveness and efficiency

The question remains of what this development towards multiple aims means for the normative aims of planning. Planning can be assessed based on the criteria of legitimacy, effectiveness and efficiency (Levelt & Janssen-Jansen, 2013). Different strains of planning literature lay a different emphasis on these criteria. Legitimacy, for example, is a criterion used in participative planning literature which questions whether participative planning processes result in more legitimate planning (Legacy, 2012; Mäntysalo, Saglie, & Cars, 2011). Effectiveness is more a topic of traditional policy analysis which looks at whether the tools of planning such as greenbelts (Siedentop, Fina, & Krehl, 2016) or urban growth boundaries (Gennaio, Hersperger, & Bürgi, 2009) are achieving their aims. Efficiency is a property that is often attributed to the functioning of a well-organized market. It is thus a criterion that is used to assess planning that addresses market failures or issues of transaction costs (Webster, 2005). These criteria represent different views on planning, and various normative planning theories (Næss & Saglie, 2000) have developed within these criteria 'for better planning' (Campbell, Tait, & Watkins, 2014, p. 47), in other words, the idea 'that a better future is possible than would have occurred in the absence of 'planned' intervention' (Campbell et al., 2014, p. 45). These criteria can be used to assess planning practice with an aim to effectuating improvements.

3.1. Legitimacy

Legitimacy is traditionally enshrined in the principle of the rule of law (Booth, 2016), indicating that government actions, including actions of planning authorities, are bound by laws and regulations. The practice of the rule of law itself, and the way it handles diverging ideologies around planning conflicts, is influenced by ideology which varies by legal context (Lees & Shepherd, 2018). Legitimacy in relation to following the rule of law relates to matters of corruption that often can be found around government contracts

(Fazekas & Tóth, 2018), which may also be of relevance for contractual relations between planning authorities and market operators. The idea is that enhancing accountability can be a measure to address corruption, for example by endorsing a programme of '(1) a simplification of the rules, (2) public access to information and (3) a sense of the state and appropriate civic behaviour' (Grossi & Pianezzi, 2018, p. 90). The analysis by Taşan-Kok et al. (2019) shows that the accurate coding of accountability mechanisms in contracts and establishing who is accountable may help to bring this forward and may help to elucidate the mechanisms can be used to hold parties accountable and identify mechanisms that may be missing or that need to be enhanced in next contractual relationship. Legitimacy in relation to compliance with rules is also an issue relating to formal versus informal development. After all, 'Noncompliance with planning and building laws occurs in most countries, not just in developing ones (though in different degrees and forms)' (Calor & Alterman, 2017, p. 208). Informality may have the scale of the Brazilian City of Belém where over half of the dwellings are in informal settlements (Pessoa, Taşan-Kok, & Korthals Altés, 2016), or may be restricted to illegitimate uses of recreational homes, residential subdivisions of houses in flats, rooms and beds for hire and beds in sheds (Calor & Alterman, 2017; Harris, 2017).

The norm of legitimacy goes beyond the rule of law and involves principles of participative, inclusive, accessible, transparent, consensus-oriented and accountable governance. Participatory planning processes may not only contribute to the legitimacy of planning itself, but these processes may also be instrumental for residents of marginalized neighbourhoods 'to achieve recognition as legitimate and ordinary urban citizens' (van Holstein, 2018, p. 54). The latter may result in disappointment if planning does not respond to needs expressed through these processes, should investment power develop in another direction. Alternatively, the participation of citizens in planning processes may be suboptimal, especially if planners fail to organize the process properly, and citizens have unfounded confidence (Załączna, 2018) in what planners will do suit their interests.

In relation to contractual relationships with private developers, the issue of third-party interests plays an important role. What is the relationship of accountability between parties involved in the contract and other interested parties? In what ways do the other interested parties participate, are their interests included, what kind of access is provided to them regarding decision-making in this contractual relationship? In what ways are relevant provisions of the contract disclosed to others? In what ways does the contract exclude people? How does it fail to result in consensus on development? In addition to the position of people living in the area, the choice of economic operator is also an issue of legitimacy. If the party with the best proposal is chosen, for example, it is relevant to identify the beneficiaries of this proposal. It must be noted that issues of legitimacy may occur even when governments refrain from public-private contracting, and are themselves actively involved in land development issues (Olsson, 2018). This is because even in this case, contracting with market parties takes place, and as the government has control over the land itself, it may tend to be weak on planning regulations, as these would constrain its own powers to act. Planning regulations are based on public powers, meaning authorities must follow specific proceedings, which may include rights of participation in the preparation of the decision, a right to be heard, a right to file objections that must be answered in the justification of the decision and a right to appeal. These are absent if private powers are used. Moreover, tort law provides fewer options to influence the decision.

Legitimacy is thus a term that can be used to address questions of planning in relation to accountability, the quality of decision making and participative involvement. It is at the very heart of most normative issues of planning today. With regard to the idea of multiple land use serving both investment and livelihood, Sager shows that many planners have adopted an activist stance by finding ways of promoting planning outside the regular channels (Sager, 2016). Such an approach can be followed if the regular channels do not provide sufficient ground for promoting issues of living quality for people in the area, for example, if planning does not provide multiple land use, but is dominated by investors' interests. The papers of Raco *et al.* and Refinetti Martins *et al.* show that planning serves these investment interests rather well. Planning is generally evaluated positively by investors in London and it means that additional building opportunities can be created in Brazilian cities. In both cases, however the question can be raised of whether planning adequately serves the interests of low- and middle-income households looking for a home. Part of the legitimacy of planning is to pose questions of whether planning in a specific context supports the quality of the living environment for the population. Does planning support legitimate interests?

3.2. Effectiveness

Effectiveness from a public sector point of view means that regulation of private involvement in urban redevelopment practices must have a positive effect on what is broadly called the public interest. The idea that planning must serve the public interest has a long tradition while at the same time also being highly contested (Lennon, 2017). This debate relates also to the legitimacy of the public interests as they have been defined. This criterion focuses more on whether planning is effective at protecting the public interest as defined. Here, a difference can be made between public interest defined in the specific context of planning and public interests related to planning as a technology to designate land uses, to accommodate these land uses and to manage areas already in use in such a way so as to bring land use and designations into alignment. In both cases, planning should do more than just define the public interest. Planning must also effectively promote the public interest. Here, guiding investment can make a difference.

Issues that play a role in planning as a technology to designate, service and manage development may, in the context of multiple land use as defined in this paper, involve the following topics. The first is whether development actually takes place. Designation alone is not sufficient to promote place-making and investment. In many urban areas there is a lack of properties resulting in extreme tensions on property markets. Planning that does not result in any development is not effective in creating living spaces in areas where need is growing. The paper by Atkinson *et al.* (2019) shows that the interest in developing a site may also be a mutual self-interest that binds actors together in a development project. This, however, does not mean that any development that takes place is in the public interest. A current example is an urban megaproject in Beograd (Grubbauer & Čamprag, 2018), where the public interest was reformulated so as to realize a specific development to support investment. Planning systems must strike a certain balance between constraints and incentives in such a way that planning does not simply become a hindrance to development (Gurran & Bramley, 2017). After all, a certain scarcity of urban spaces for the protection of investment value is no problem, as it reduces the

uncertainty of future values of an investment. Investors, however, may see it differently if there is an oversupply of affordable housing on the market, resulting in price pressure on property markets. Planning resulting in few development may therefore be highly effective from an investor's point of view. The second issue is whether investment takes place at the locations that fit planning policies. Here, issues such as urban sprawl versus infill development play at a regional level, but planning may be more or less effective in promoting development at dedicated locations at a local level, too. The third issue is the affordability of development. Here, the tension between liveability for all and creating investment value may result in tensions. Investors might not consider it an issue if they were to build only for households in the top third of the income bracket, but this may create major affordability issues for the broader population. The fourth issue is the need for infrastructure. Providing public services and utilities is a classic government task. The fifth issue is that no displacement takes place of existing residents, unless there is a proper replacement and human development programming (such as education and access to work) ensuring that redevelopment also benefits those who currently live in the area. These are examples of issues that planners have traditionally faced and that may assist in the practice of multiple land use.

3.3. Efficiency

The idea behind getting market parties involved is that markets are efficient, which does not mean that all actors that operate in a market are efficient. The strategy of many private undertakings is to look for areas in which they are shielded from market competition, as this is beneficial to their survival (Fligstein, 1996). Market competition is less fierce in such shielded niches and larger profits can be made. Private actors can often work outside the discipline of the market in positions shielded from competition through government contracts (Fligstein, 2011; Fligstein & Mara-Drita, 1996). In the urban redevelopment context, many specific factors can undermine market efficiency. This is especially the case for land markets (Alexander, 2014). Transaction costs are high, land assembly efforts can be plagued by hold-outs, and there is the issue of land as an option, which may result in compensation of a speculative value prior to the commencement of development. A specific issue in private development is value capture, which is to be understood in this context as the extent to which public sector costs are covered by the value of redevelopment. The papers in this issue show that the yield of value capture may in practice be less than the public sector costs. In relation to combining place making and the creation of investment space, the following aspects are examples of issues that are relevant for further study. First, the method of organizing value capture that is aimed at covering the costs of servicing. This involves major transaction costs, free-rider issues and debates on whether market risks are indeed borne by the market or transferred to the planning authority (Morrison & Burgess, 2014). Issues about a sound legal base and sound legal practice also play a prominent role in defining who must pay for what (Refinetti Martins et al., 2019). The second aspect is the issue of speculation based on option values. Landowners and developers have the flexibility 'to build at the time of their choosing' (Geltner, Kumar, & Van de Minne, 2018, p. 3). A landowner that develops property destroys the option to develop later, that is, 'the decision to invest is a decision to exercise a real option' (Capozza & Li, 2002, p. 123). This is an expression of the classical tension

between planning and speculation. Planning can break the tension either by creating a sense of opportunity, as in the Munich model of social and fair property development (Frießecke, 2015), or by using coercive instruments such as compulsory purchase (Korthals Altes, 2014). The third aspect encompasses the issues of land assembly hold-outs. When combining several plots to create a more efficient and lucrative plot, the bulk of the additional value will be created when the final deal is closed. Initiative – closing a deal early – does not pay (Isaac, Kitchens, & Portillo, 2016; Miceli & Sirmans, 2007). Government action has the potential to mitigate this effect, which may enhance efficiency. As a fourth aspect, market parties may use their relational assets with authorities and contracts based on these assets as a shield from strong market competition. On the one hand, both development companies (Raco et al., 2019) and local authorities (Korthals Altes & Taşan-Kok, 2010) may cultivate these relational assets, for this is a way to build mutual trust based on reliable performance in past projects. On the other hand, corruption may become a risk if the relationships are too close. Planning can thus contribute to matters of efficiency in a way that both supports investment and the provision of affordable properties. Analyses of case studies will bear this out.

4. Conclusion

Planning contributes both to the development of living places and of investment spaces. Combining these functions can be seen as a generic process of promoting multiple land use. The outcomes of the functions are not only mutually dependent, but they may also create extra value for both functions. Additionally, as the papers in this special issue show, one of the functions may end up compromising another function. Combining functions may not only result in the blurring of boundaries between the making of living places and investment spaces, between public and private domains, but it may also result in the creation of new boundaries between those involved in the process and others. Contracts are an instrument that planners can use to bridge investments and planning designations. However, contracts also exclude third parties from the deal. Using contracts leads to many questions relating to legitimacy, effectivity and efficiency.

The papers in this issue provide an overview of topics that play a role in a variety of contexts. In the Brazilian case, the major urban inequalities are reflected in planning practice, with the result that planning for multiple land use is failing to ensure affordable living places for a large part of the population. The paper on case studies of projects in the West of England shows that there are differences in the way specific investors take on roles relating to the quality of the environment. The idea that specific localized regimes are formed around projects has close links with the work on accountability regimes around development projects in the Netherlands. The authors indicate that new forms of governance and contractual relationships result in new regimes of accountability, which go beyond contractual compliance in practice. The London study analyses the evaluation of the planning system through the eyes of investors, thus providing prime insights into the way in which planning contributes to the creation of investment space. The paper suggests that, on the one hand, contracts can bridge the functions of planning to create liveable places and the promotion of investment, while on the other hand that using contracts result in issues of accountability towards third parties to the contract. Planning may change for the better (Campbell et al., 2014) by

questioning practices from the angles of legitimacy, effectiveness and efficiency, not only in the context of research, but also in the context of actual practice.

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No potential conflict of interest was reported by the author.

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