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URBAN PLANNING COMMISSIONS IN FRANCE

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TWO MAJOR CATEGORIES OF URBAN PLANNING STUDIES

Urban planning studies are traditionally distinguished from architectural studies by virtue of their scale and their subject focus. They form a very diverse set of activities, but they can be divided into two major categories:

- Spatial planning studies related to the development or revision of strategic or regulatory urban planning documents
- Studies prior to the implementation of an urban project for a district, block, or public space.

Spatial planning studies in France mainly involve two types of document whose content and scope are governed by the Urban Planning Code: the local urban plan (PLU) for towns, the national-level area coherence scheme (SCOT in French) for larger built-up areas and entire regions comprising combinations of towns and villages.

The PLU defines land entitlements at plot level. It is commissioned by town and village municipalities and also by “institutionalized” urban communities.

The scale of the SCOT is wider, more strategic, although less focused and more limited in its legal scope. It cannot, for example, be used to grant planning permission for a specified plot. It is commissioned by cross-municipality structures or structures created for a specific project.

As for urban planning projects, these do not have the same institutional character as those cited above. They usually focus on areas smaller than a town or a conurbation, yet are larger in scope than so-called “architectural projects”. The difference between an urban project and an architectural project lies in the larger scale (in relation to the city) and also in the mix of complexity and diversity of the real estate outcomes in planning projects, compared to one-off building projects erected in public spaces.¹

These urban planning projects also fall into two categories depending on the nature of the commissioning party – “preliminary” studies and “pre-operational” studies.

¹ The distinction made here for expository purposes between urban planning studies and architectural studies may seem a bit arbitrary. Bernard Reichen talks about “urbano-architectural scales”, when talking about converting large industrial sites, adding that: “the relation between urban planning and architecture involves complex ensembles, urban connections, and major components.” In “Marchés de définition simultanés : comment réussir votre procédure ?”, proceedings of a seminar held on June 14th 2002, coordinated by François Meunier and Jodelle Zetlaoui-Léger, Mission interministérielle pour la qualité des constructions publiques.

Preliminary studies are commissioned by local authorities and government departments from designers, who work independently from any eventual operators. The idea is that the content of their studies should not be influenced by the interests of the operators who will eventually implement the urban projects. At this preliminary study stage, these operators will not yet have been appointed. On the other hand, the so-called pre-operational studies are carried out by the appointed operators. In France, these operators are usually independent developers associated with construction and public works companies. They are often mixed economy (public-private) companies, but they can also be private firms.

Urban projects are frequently conducted through an urban development zone (ZAC in French) procedure, which is used to specify the respective obligations of the planner and the public authority in a given contract. To comply with European directives, recent changes have significantly altered the planner's role and the criteria for commissioning urban planning studies, as discussed below.

Preliminary and pre-operational studies have fairly similar content. Unlike operational studies (which will not be discussed here),² they propose alternatives and come up with different scenarios.

For designers, urban planning studies are often a way in to a construction and project management role. Even if they are seen as an end in themselves, they offer a way into a project management commission, which is more lucrative as it is calculated as a percentage of large work contracts, and also a more satisfying and rewarding activity for professionals as they can lead to concrete development work.

The different types of studies do not, however, offer the same opportunities for access to project management. Yet they raise the same questions regarding payment and their link to project management.

Category	Type	Scope	Sponsor	Status
Spatial planning	PLU	Town	Municipality	Content define by law; Opposable
	SCOT	Built up area	Group of towns	Content defined by law; Not opposable
Urban project	Prior	Neighbourhood, block, public space	Public authority	No legal definition of content
	Pre-operational	Neighbourhood, block, public space	Planner	No legal definition of content

SPATIAL PLANNING STUDIES

² Actual operational studies (or detailed preliminary studies), conducted by the appointed operator, which relate exclusively to the chosen piece of development and are a direct preparation for implementation.

In an ideal world, SCOT studies would be carried out first to define a municipality's general development strategy, before the mayor's office draws up a more accurate, finer-scaled PLU. The PLU would then set the targets and guidelines for urban projects. But what actually happens is that this wonderful top-down organization is often replaced by a bottom-up system whereby the urban project dictates its own agenda, and the PLU merely adapts to the regulatory conditions. And SCOTs are often approved some time after local urban plans, so they are sometimes accused of being mere "copy & paste" versions of the PLU.

This means that there is not necessarily any real continuity between the urban planning document and the urban planning project. Bottom-up approaches rule the roost, which means that PLU studies, and especially SCOTs, are far from offering the most direct route to a project management contract. Only teams with close contacts in the region and capable of forging stable networks of relationships with local decision-makers will use this planning document route to get their hands on a project management commission from local authorities.

Preparing planning documents now requires multidisciplinary teams, including not only architect-town planners but also social scientists specialising in economics, demography, and geography, lawyers and, increasingly, environmentalists. These teams generally vary in size, due to the fact that intellectual service providers in France are highly fragmented, and the remuneration for carrying out studies does not encourage the development of consultancies with long-term organisations with heavier internal management costs due to the hierarchy of director, agency director, project manager, horizontal specialists, functional departments, etc.

When these study teams become fairly permanent, they are less available for project management. However, the cost of entering the market for urban planning document studies is relatively low. There is no need to invest productive capital or extensive commercial premises. New teams can start up with a minimum investment.

URBAN PROJECT STUDIES AND URBAN PLANNING DOCUMENTS

Preliminary and pre-operational studies offer a more reliable way of getting commissions for urban projects than urban planning studies. However, they generally occur as part of existing planning documents, on which they have retroactive force. The whole question then becomes one of knowing to what extent their results must be included in the planning document and thereby take on a regulatory status.

In France, PLUs are legally binding. They entitle owners to infer that their land can be built upon and ultimately what its potential value is. And it is difficult for that value to be changed afterwards. This trend was exacerbated by the reform of local planning documents (The Solidarity and Urban Renewal Act of December 13, 2000), which transformed the land use plan into a local urban plan (PLU), which acted like a manifesto for an urban planning project. This is certainly an improvement over the old land use plans, which were often fairly brief and more regulatory than design-focused. But by translating the results of preliminary studies into legally binding planning guidelines, they tend to complicate and delay the actual process of getting down to work (because it in any case often proves necessary to amend the planning

document to accept the plan in consultation with the designated operator). In addition, it may also undermine economic balances by setting property prices that are completely unrelated to the actual constraints of the development plan. This plan should include unprofitable real estate products such as social housing and business premises, and fund the cost of facilities that cannot support one-off property developments within the existing urban fabric.

It is true, however, that the authors of planning documents have a tendency to want to freeze their requirements by making them legally binding, hoping that by doing so they improve the chances of seeing them carried out. In this, they follow the aspirations of civil society and environmental advocates in wanting to see quality demands “etched in stone” to ensure they are actually implemented, given the inevitable contingencies of almost any project.

There should therefore be a stage of urban programming between the creation of planning documents and the earlier preliminary or pre-operational studies in which the content, products and future uses of the development are defined. But this step is often very limited or completely non-existent. Many clients tend to feel that the definition of the content will follow automatically from the design of the container, or that it is up to the designer, architect or planner to define the programme. In reality, there should be an ongoing dialogue between the overall urban programming people and the actual design people, involving the participation of local residents, elected officials and associations. It is to fill this gap that so-called “scoping studies” were created, which are used to get several competing teams working on the to and fro between programme and design.³

Preliminary studies are normally carried out by the local authority (or sometimes by a government administration) while pre-operational studies are carried out by the appointed operator. Circulars from the Ministry for Infrastructures (responsible for urban planning in France) typically used to recommend that preliminary studies should be done by people who had no connection with any entity that might subsequently act as an urban developer. This was to ensure that the choices pitched at elected officials were not biased by the operator’s own interest in, for example, focusing on economic rather than qualitative criteria.

However, experience has shown that preliminary studies carried out without the presence of a planner often turn out to be unsuitable in the implementation process, since the designers do not have sufficient knowledge of the commercial, technical, operational, and land use constraints affecting the situation. Even in cases when these preliminary studies are done well, with a realistic quantification of costs and revenues, it is generally necessary to review them at the operational stage, and even to completely redo them. However, these preliminary studies are useful, even essential, as they help to educate elected officials and residents and to set out the key choices involved in any urban planning project. Key choices that can then be imposed on the developers or, at least, discussed with them. But the lack of continuity between the study teams leads to extra costs and delays.

³ Public contract law describes them as follows: “When the adjudicating power is unable to specify the objectives and performance they should achieve, the techniques to use, the human and material resources to ferment, it can employ scoping studies.”

Because of these shortcomings in preliminary studies in the strict sense, they have in practice usually been allocated to operators once these have been appointed and the distinction between preliminary studies and pre-operational studies has disappeared. This is particularly true because local authorities did not always have the funding for studies, while operators could finance them in advance and then factor the cost into their balance sheets. Traditionally, local authorities tended to appoint their developer at a fairly early stage of operations, and this was especially easy when they had internal control over this same developer (in particular, in the case of mixed-economy companies). This developer was responsible for both acquiring the land and for carrying out pre-operational or operational studies.

But the new method for appointing developers introduced to comply with European directives, has changed this, and once again raises the question of the relationship between preliminary studies and pre-operational studies.

NEW PROCEDURES FOR CHOOSING DEVELOPERS

We must draw attention here to a French peculiarity when compared with other European countries concerning the traditional division of labour between planners and land developers. The developer transforms raw land (agricultural land in the suburbs, brown-field sites or isolated obsolete plots of land within the existing fabric) into land that is restructured and legally able to be built on. He then sells the lots to developers or investors who will build on them. In many European countries, the tasks of the planner and land developer are carried out by the same large private groups that develop the land primarily so they or their affiliates can build on it. In France, there are very few such companies willing to assume the risks of long-term planning, and the fragmented nature of towns and villages deprives them of sufficient resources. As a result the State and local authorities tend to build public planning networks that take the form of special companies (“public” companies), under the control of public bodies which assume the financial risks.

But since the Law of July 20, 2005, planners must now ensure a competitive tendering process before being awarded a development concession by a local authority. This means that preliminary studies have to be done before the planner is appointed, so as to create a consultation package that is informative enough for applicants to bid in a knowledgeable way. This means we have gone back to a distinction between preliminary studies carried out independently of the developer, and pre-operational studies carried out by them after they have been appointed. And once again, we can see the mismatch between the preliminary studies and the expectations of developers who have to deal with real implementation conditions. In practice, the appointed developer often ends up redoing these studies using another team of designers before signing a definitive contract with the local authority (the concession agreement).

To avoid this discontinuity between preliminary studies and pre-operational studies, one solution is to involve a “prospective” developer at the stage of initial studies, either by entrusting him with the study work, or by giving him a paid supporting role in the project management to check on the technical and commercial operating conditions of the proposed development parts. The difficulty then is being able to

demonstrate that the “prospective” developer cannot benefit in any way during the tender process. To ensure that this process is transparent, the competitors must be able to consult all the studies prepared in advance for the tender. And the tender package itself must not have been put together by the developer.

The use of competitive tendering in theory puts public planners on an equal footing with private planners. Indeed, during the recent real estate boom in France, and because of the scarcity of available land, some private developers began to take on the role of planners. This enabled them to obtain advantageous changes in land entitlements and assume a prominent position vis-à-vis the owners, so that they could end up with land that these private groups had developed for themselves or for their own property development companies. However, unlike their European counterparts, these private planners avoid engaging in very long term operations. But they still act as competitors with public organisations, especially since many local authorities no longer wish to shoulder the deficits of these public bodies.

But this form of competition is somewhat biased. Private planners do not try to make a profit on the actual planning itself, which is only incidental to private development. They will make their money on the later development operations, so they will hand in a balance sheet showing no apparent profits. They are all the more capable of doing this as they are accustomed to paying low fees to designers during the planning stage by promising them project management work during the later building stages. And this continues a practice found frequently among developers of only paying designers once they have obtained their building permit.

Public planners, on the other hand, are not developers and they have to bear the real costs, including paying designers correctly because they cannot hold out the promise of more lucrative work once the building process starts up.

Private planners will therefore tend to call on experienced project management teams to carry out pre-operational studies, which discriminates against young teams who have no track record in this field.

RECENT DEVELOPMENTS IN PLANNING

In reality, private planners and public planners do not necessarily work in the same area. Private planners focus on operations that can be “managed downstream”, i.e., that can only start once the building work has been commercialized. These operations look formally similar to planning, due to their relative scale, diversity, complexity and the use of urban development zone procedures. But economically speaking, they are organised more like large-scale real estate developments that might unwind over the short term. Their principle focus is on commercial foreseeability, especially in times of economic downturn.

Government planners, on the other hand, provided they have guarantees from local authorities, can commit to the less certain longer term, beyond the usual business cycle level of foreseeability. In this regard, we speak about projects “managed upstream” since political decisions take priority over the vagaries of the economic

environment. This longer time scale stretches beyond business cycles, even though the operation may have to take account of these for production times.

The nature of public planning has also changed with the emergence of such issues as urban regeneration and sustainable development, to such an extent that the term “planning” is taking on a richer but vaguer meaning.

FROM PLANNING TO URBAN CONTRACTING

Until the 1980s, public planning in France focused on producing “built up areas”, either using agricultural land on the outskirts of towns and cities or by demolishing old neighbourhoods after relocating residents in suburban housing estates (known as “bulldozer renovation”). After this period, operations grew more complex, combining rehabilitation, reconstruction, the fine-tuned handling of public spaces and also involving issues of a social, economic and cultural nature. Above all, responsibility for these operations has been taken over by local elected officials and residents, who often demand to be relocated in the same town or village. As this involves consultations with many local stakeholders, these operations inevitably take a long time. And during the process, events occur such as the closure or relocation of a company, and ideas also evolve. There can be no fixed idea of an operation as it will evolve through constant dialogue.

While planning in post-war France (1945-1975) was more like an industrial production line, its successor is more subject to iterative processes, in which outputs can have a retroactive impact on design and new opportunities can upset initial ideas, and where the sequence of phases cannot be strictly defined in advance.⁴ The agreed term for describing this new type of development is “urban contractor”. Under this new planning agenda, creating “built-up areas” has become ancillary to transforming a neighbourhood or a whole town or city. The planner usually only acquires a small portion of the entire land area. What is really important is the original motivation, the coordination and negotiations with a large number of stakeholders and articulating the political project with the technical aspects.⁵ To describe this type of developer, a term such as “integrator” would be even more appropriate.

For designers, the challenge of this complex type of planning lies in becoming part of a very complex local system of actors and trying to understand its social, relational and economic nature. In this local system, there are constant and ubiquitous negotiations between the “interested parties” (i.e. stakeholders such as owners, businesses, real estate operators, local authorities, residents’ groups etc, including the national and higher levels of local government), despite the official doctrine that urban planning must be done by the government, in a unilateral, top-down way. The designer is involved in these negotiations and is expected to facilitate them by

⁴ See Jean Frébault: “La montée en puissance de la maîtrise d’ouvrage urbaine et ses conséquences dans la conduite des projets”, in *La maîtrise d’ouvrage urbaine*, a collective work from the Ville Aménagement Club, published by Editions du Moniteur (2005).

⁵ See Yves Janvier: “Un système de production en mutation”, in *Fabriquer la ville, outils et méthodes : les aménageurs proposent*, a collective work from the Ville Aménagement Club published by La Documentation Française (2001).

producing urban planning solutions that reflect the trade-offs established between the stakeholders.

In a given urban situation, therefore, there can be no single planning decision inspired solely by the “spirit of place”. The planning decision, unlike the architectural design decision, is not the work of a creative mind or an artist. In reality, it most often arises from a compromise reached after lengthy negotiations between many different players. Commitment to a single solution by a designer tends to lead to inflexibility in a negotiation involving all the stakeholders.

Designers are also faced with the issue of political influence in urban contractorships. If this political commitment is low, and no important elected official has committed to the project, there may be sharper tensions between participants, and the designer’s mission will be all the more difficult, and sometimes less lucrative, because of the time and energy inevitably wasted in trying to manage conflicting viewpoints.

This type of complex planning takes a long time. For the “integrator” type planner, the key issue is to be able to involve designers over the long term.

CONTINUITY

Complex planning is therefore not a linear process in which tasks follow on directly from the definition of the programme at the design stage up to implementation. Often, the design can influence the programme retroactively, and studies have to be redone at this stage. Early deliverables can open up opportunities that then require a complete review of the programme and the design. The planning process has to go through periods of turbulence and it is important to keep firmly on course over the long term. It is therefore vital to ensure that the same designers can sustain the underlying spirit of the urban project throughout the process; otherwise it may change shape and unravel over time. However, the rules of public procurement tend to make continuity difficult since each new work package (ones involving large amounts of money) has to be put out to tender. A number of urban planning integrators have therefore adopted the solution of issuing long-term contracts of up to ten years or more, containing a whole series of separate work packages that can be activated by issuing a series of specific commissions. But these contractors probably prefer to commit over the long term to designers who already have a track record in running studies and project management. Young architects will find it more difficult to find a place in such schemes.

Clients will therefore tend not to give commissions to young designers, despite the fact that they appear to cost less. They may, however, test them on small jobs rather than on large-scale implementations. In this regard, scoping studies,⁶ where at least three paid teams can work simultaneously in competition, are a way of giving young people a chance while limiting the risk for principals, as they will be involved in several projects. Scoping contracts also create continuity, allowing the teams responsible for preliminary studies to go on to work in project management, since

⁶ The public procurement code defines these as follows: “When the awarding party cannot accurately measure the targets and performances required in advance, or the techniques, staffing or materials to be used, he can commission definition studies.”

after the scoping studies, the contracting authority will select one of the teams to carry out the actual work. However, young designers will still have to form teams so they can be selected for scoping studies, and these teams will have to include professionals from different backgrounds and possibly include developers and construction firms. Principals often ask for the director of a scoping study to be an architect and urban planner, but this person could find himself in difficulty if he lacks the requisite experience.

FEES FOR STUDIES AND PROJECT MANAGEMENT

Studies are paid at a rate fixed in advance, before the work is carried out when even the contractor only has a vague idea of its eventual quality and the time it will take to do the work. Unlike a finished product found on the market, or a product described very precisely in technical specifications, the quality of a study cannot be evaluated ahead of time. A study team's references are one way of ascertaining quality, but they are no guarantee, rather as a film director can deliver masterpieces but also complete flops. It is also hard for contractors to have a clear idea of the time needed to carry out creative, intellectual work.

Elected officials, especially in smaller municipalities, do not always have the appropriate professional culture to appreciate the true value of the intangible value of brain power. Older officials are also used to the services provided free of charge by government agencies or public bodies, such as public companies and social housing agencies.

When faced with these uncertainties about the future content of these studies and their operational impact, contractors tend to squeeze the budgets allocated to them. And it is much easier to do this when there is fierce competition among suppliers and when candidates are often prepared to accept lower rates, either because they have misjudged the size of the job, or because they want to get involved in a tender and are willing to make the necessary sacrifices.

Whether studies involve upstream planning documents or urban projects, the time spent in consulting with elected officials and residents and making communication media (boards, models, leaflets, videos, etc.) is playing a larger role in budgets. In this respect, young teams appear to be better placed as they are more available and more motivated in helping local inhabitants to participate. As they cost less, they worry less about the time spent talking to people or creating communication media.

The heads of major firms say their urban studies departments operate at a loss and that what keeps the company going is project management.⁷ In other words, downstream work supports the upstream preparatory work. To achieve this balance in professional practice, however, one has to be able to access the entire chain, from preliminary studies through design and then implementation. For an architect-urban planner, that is already a sign of having reached maturity.

⁷ See the feature in the journal d'Architectures, No. 176, October 2008: « Rémunération des études urbaines : un dangereux discrédit ».

In conclusion, the question of urban studies is part of a dual transition: the shift in spatial planning towards more complex, retroactive, long, participatory processes, that require greater continuity of designers and more political commitment; and conversely, a general shift in society towards an ever-growing “market orientation”, demanding competition at all levels and short-term or medium-term economic foreseeability. So we need to invent a way of managing urban studies that reconciles these contradictory tendencies, which allows a continuity of designers with transparency, which fosters emulation without rejecting young, less experienced teams. Indeed, we need to be aware of the demographic context: with the “baby boomers” soon going into retirement, the new generations need to take over gradually, and to be offered sufficient space in the urban planning market.