

Development Control an Important Regulator of Settlement Growth: A Case Study of Ekpoma, Nigeria

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ABSTRACT Development control is seen as a mechanism put in place to maintain standard. It reduces the negative effect that accompany physical development. There are restrictions introduced to prevent certain acts that are detrimental to stake holder in the built environment. The concept of zoning, covenants and other forms of regulating agreement are being used to guide developers and beneficiaries. The organised field work, interview and documentary materials form the sources of data and information for this work. This is what reveal the lawless ness, unplanned physical development and haphazard development recorded in many places. The panacea is the ability to realise positive results in the course of enforcement. The laws that will satisfy both private and public needs have to be harmonized into the present conditions in the building industry. For sectors where a reasonable success have been achieved the need to sustain the tempo and maintain the stand ard remains as the challenging factor.

INTRODUCTION

For any system to work as expected there is always the need for control and, balance which is a form of regulation for necessary operation. Development control is an aspect of planning that is difficult to operate in the country in terms of realization of its aims and expected objectives. The responsibilities in this area have been left to a particular branch of the planning authority which have made it difficult for reasonable success to be achieved. Experience in the past showed that a lot of risk is associated with this unit, which centers on administration and management.

Keeble (1969) was of the view that “development control involves regulation of the detailed aspects of development, about which precise guidance cannot be given by the development plan, so as to ensure convenient and slight results”. In the real sense, the desire is to allow for orderly environment that will meet the requirements for ideal living. Generally, it was noticed that there was misconception about the setting up of this organ. Conversely the condition is for the good of people concerned. Perhaps this is the positive opinion held by Keeble “that a local planning Authority should, clearly understand that the sole objective of planning and planning control is to secure the right use of land and that planning powers must not be made to sub serve other ends”.

In order to exercise the responsibilities in this

particular area certain issues have to be addressed. They include enforcement of the regulation and law which is always problematic, obsolete equipment that needed to be changed in one hand and adequate machinery to work with in the office and in the field. On the other hand, the present state of most planning authorities showed that there is shortage of qualified manpower to monitor the fast growing physical development. Also manpower development programme to enhance the productivity of staff has suffered serious set back in the past.

For any meaningful planning exercise to be fruitful the knowledge and information about the population and relevant data concerning the area of interest will be needed. Today we are saddled with unreliable data and, poor data formation, although, there are improvements in some areas with the current computer, E-mail, Internet and other services available all over the world.

Before and after emergence of Town and country planning in Nigeria, development control was operational in regions. Due to neglect and non performance, areas that would have been designated as ideal neighbourhood, Districts, Towns, Villages, Cities, Satellites town etc. (Urban and Rural Settlements) have developed into slum and decaying environment due to non implementation of planning proposals and planning control measures which have resulted in top government spending of huge amount of money for planning schemes, and exercises. Also the revenue that would have been realized from

land acquisition process and the operation of the exercise are lost.

In view of the above the paper comprises the Introduction which is the first part, state of the art which is the second part, Town planning and development control in Nigeria is the third part while the fourth part is made up of recommendations for development control problems and conclusion.

STATE OF THE ART

There are recorded cases of operational over lap manifesting which allows for loopholes in development control activities. The responsibility of government and state holders at all level have to be stream lined. The Lagos state government have initiated a more harmonize activities of Ministry of Physical Planning and Development, the Lagos State Urban and Regional Planning (LASURP), the Lagos State Waste Management Authority, (LAWMA) and the Ministry of Environment regarding enforcement, administration, approval of building documents and demolition of illegal structures. There may be other lapses that are not related to these aforementioned which involve operational mechanisms that inhibit development control.

Findings in the past have showed that different ministries or agencies had granted approval for development without inputs from other relevant ministries or agencies. This development has jeopardized effort of government at promoting a healthy environment.

According to Alao, (2005) "reacting to criticisms which have trailed the on going demolition of illegal structures around the state, officials have described the situation as "inevitable" given the enormous abuse which the canals and their set-backs are subjected to". The process of clearing the canals along Ketu/Alapere axis had claimed several casualties including places of worship and buildings belonging to important personalities. All structures within the stipulated 15 metres set back on both sides of the canals are to be demolished.

For certain decision to attain the desire result, it will be necessary to take advantage of the law in expressing it. Many of our settlements did not have master plan and where such exist it has not been fully operational. The need for guidance as we proceed with rural and urban developments are fundamental.

Regulations and controls exist in the form of laws and powers granted to public officials when democratic government is operational, laws and public power comes into being when proved essential to the public interest. Making the law and instituting public power and effecting changes takes time.

A pointer to the fact that the law is still relevant was established in a supreme court case where in 1954 the supreme court decided that aesthetics was a just public concern worthy to support by law. The case of *Berman V Parker* urban renewal project in Washington, D.C. the court ruled that "it was within the power of the legislature to determining that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled.

The realisation of official city plan can only be possible when there is basis for its execution. it is a legal document showing public streets and private land, with dimension. Also in the documentation are easements on private and right of access to alleys or underground utilities. It also earmark public lands for parks, police station, hospitals, schools and libraries. It helps in private properties physically for legal documents such as ownership titles or deeds. Once drawn and adopted, the official city plan or map is difficult to change. The official plans forms the basis for taxation, insurance contracts and sale which are controlling measures.

The zoning ordinance has features that resemble official city plan. It specifies the uses to which property may be legally put and the intensity of development allowed. It may specify off street parking requirements or off street truck loading facilities as a ratio of floor area. Zoning is seen to be negative, it prevent property owners from burdening the public with an ill-suited development. Professionally it must be recognized that zoning is no substitute for design and that too often it freezes the design of a city. You should also know that zoning is neither, planning nor design. Basically it is a set of specifications that accompany a plan. It is regarded as a set of architects' specification, a building description of his blue print. It is expected to be a product of a city plan. Zoning, on the other hand possess legal status.

Close to zoning is land value, the particular area of a city and its general uses influence land values seriously. Land value largely determines the uses to which land can be put. Inflated land

value are one of the most restricting elements of urban design. It is obvious that public control in terms of ownership is an important factor. Legal critics have pointed out that if it is fair to compensate owners for loss in value through public action, then we can refer to value gained through some public action. Such as building a new highway along a previously inaccessible property.

With the knowledge of computer it is now, sufficient to use taxation policy as a tool of urban design whereas taxation is already a tool of economic planning. It is from the land and building values tax revenues are computed. In estate per se building is termed an "improvement because it add value to a piece of property. The value is actually determined by market value.

Resulting to further difficulties is municipal fractionalization which is the division of what in fact, a total working organism into separate pieces. This problem is being addressed through the local planning commissions haven voluntarily joined together in regional planning councils for discussion and coordinated decision making. On this matter there are seven steps that can be used to resolve isolated action. The management and coordination of codes and ordinances, comprehensive community planning, neighbourhood analysis, administrative organization, financing, housing for displaced family and citizen participation. This programme have been beneficial for urban renewal and a guide for planning financial resources.

Subdivision regulation is another physical extension of zoning for forming the character of an area, usually residential, it also involve building form and community character more specifically than zoning. The requirements in terms of the sizes of front and rear yards, minimum lot size and in some cases minimum house size and materials.

Paul (1965) stated that "The covenants are conditions which stipulate and direct an action in respect of property in its deed, or statement of ownership". This aspect of law can be transform into physical action in the written deed to ensure property maintenance, sound use and ensuring community health. Its application was established when property owners around Louisburg square in Boston and Gramercy square in New York agree through covenant to support the cost of their private parks. Also applicable in sub-urban residents of Houston, Texas private deed

covenant was used rather than public zoning ordinances.

In the process of creating new towns there is period of transition from developer ownership to occupant control. Through legislation alteration on the original plan which precludes the final development of a socially and commercially balanced "new town". Indeed, the covenant can be drafted in the form of development policies that would allow flexibility while ensuring the realization of social aspect of the new town in a more or less way as originally planned in the design.

Obviously because of the nature of the response to development control, the regulation on building, housing and sanitary code have to be mentioned. The building code specify minimum standard to produce sound building and its effect on community design and appearance stating conditions for the use of certain building materials and mechanical features. The window opening areas which is not reasonable when considering relationship between one house and another are stipulated by the building code. There are building code that does not allow for modest new houses usually the narrow ones. It is possible to use performance standard which states the requirement and then leaving the method to the designer.

The application of law in form of regulation can further be exercised in other areas which include conservation and upgrading slum repair, peculiar site control, new development and general over view of currents and future architectural and planning steps.

TOWN PLANNING AND DEVELOPMENT CONTROL IN NIGERIA: HISTORICAL PERSPECTIVE

The genesis of development control can be associated with the land tenure system operated by both the North and Southern parts of this country. Land was vested in the Emirs, Obi and the Oba for onward usage as it may be necessary and conditions were set for acquisition.

The out break of different types of disease and the need for effective. Town and country planning necessitated the formulation of ordinances that touches on health, land use, environmental preservation, roads classification of towns became operational. Planning scheme approval committee was set up in 1924 and in 1928 Lagos Executive Development Board

(L.E.D.B) was established and became effective in 1929 for planning and development in Lagos.

Later Town and country planning gained recognition with the introduction of more planning schemes and planning authorities with the promulgation of Nigerian Town and Country Ordinance No. (4 of 1946). Between 1954 and 1963 a regional systems of planning was adopted in Lagos with the law in 1958, west as cap 123 laws of western region of 1959, East as cap 126 laws of Eastern Nigeria 1963 and North as cap 130 laws of Northern Region 1963.

With the creation of Town planning division to enhance planning and the introduction of planning authority and development unit in the old Mid-Western State with Edict No. 3 of 1969 herald the National Development Plan which became operational since 1920 through 1980. of importance in the policy are planning of urban centers, designing and planning of new settlement and urban renewal scheme.

To make, Town and Country planning more relevant and effective. Their power to function was vested in the local government area and with the creation of more local government areas in 1976 planning authorities were established to handled planning matters.

Various issues relating to land matters were tackled by the promulgation of Land use decree of 1978. This effort was aimed at making land available to Nigerians and exercise control over land.

It has been established that most development control measures are not adhered to because the benefits expected are sometimes not easily recognized. For this reason people are usually reluctant to comply with such directive. For example some clients did not see it necessary to obtain approved building plan before embarking on construction of buildings. Until when there is problem associated with developments, which contravene existing laws relating to development, that is when developers will be responsive.

This reaction is based on previous experience where approval is regarded difficult or impossible. Officers are often accused of miss using the powers vested in them to the detriment of the public. This development has generated complaints from stakeholders.

With the present commitment on the part of concerned officers, agents and bodies responsible, an appreciable success is being recorded.

The preparation for the visit of Queen Elizabeth of England around 1958 accelerated one

of the planning schemes that rejuvenated part of Lagos which the inhabitants acknowledged. Areas that are orderly and traces of planning are noticeable especially in districts, neighbourhoods, housing estates and in some part of settlements are not always difficult to manage and cheaper in term of renewal such example can be found in Oyo State, Bayelsa State and some Eastern states, where world bank assisted fund was made available for the projects.

Development control measures have not been successful in some states of the federation because necessary support is not coming from the government. Uncertainty, fears are associated with the exercise not actually knowing that the gains deriveable from it out weight the disadvantages. Lagos state government housing computerization exercise which is being introduced in Edo State is a typical example. This will aid research and investigation regarding settlement. Experience in the past has shown that most of the blame arising from physical development efforts is usually directed at selected professionals. In deed Town Planners are recog-nise as professional in charge of development control. There are other professionals in the building team who have roles to play. This is to ascertain that various contributions are being made, and will still be made.

In addressing these physical development control measures and to improve the general well being of the people, the Urban and Regional Planning Decree (88) of 1992 was promulgated. The surprising thing is that the law has not come to full operation since then.

For physical development and social well being to be realized, there is need to actualize the usage of the act.

From table 1, one thousand eight hundred and seventy nine building plans were registered between 1990 and 2000. The highest number of registered plans was obtained in 1992/93 year accounting for 384 or 20.4% while the next highest number of 364 or 19.4% was recorded in 1998/99 year. The table also shows that a total of One thousand seven hundred and twenty two 1722 building plan was approved. In 1992/93 fiscal year 360 number or 20.9% of which is the highest was recorded. For 1998/99 the record shows 320 number or 18.6% of building plan approved. The lowest number of 235 or 13.6% was accounted for in 1994/95 year. The number of unapproved building plan stood at 157 representing 8.4% of registered number of building plan.

Table 1: Conditions of building plan approval in Ekpoma Zone

Natural of Building plan approval	Type of Building	1990/ 91	%	1992/ 93	%	1994/ 95	%	1996/ 97	%	1998/ 99	%	2000	%	Total	%
lbrdrNo of Building plan registered	Residen-tial	280	15.0	384	20.4	260	11.8	289	15.4	364	19.4	102	16.0	1879	100.0
lbrdrNo of Building plan approved	Residen-tial	262	15.2	360	20.9	235	13.6	265	15.4	320	18.6	280	16.3	1722	91.6
lbrdrNo of Unapproved Building plan	Residen-tial	18	11.5	24	15.3	25	15.9	24	15.3	44	28.0	22	14.0	157	8.4

Source: Esan West Local Planning Authority, Edo State, Nigeria.

A look at other sectors showed that 30 commercial buildings and 30 public buildings were approved between 1990 - 2000.

Development control can be appreciated in Ekpoma zone because of the initiative by the former Governor of the State Prof. Ambrose Alli who assisted in opening up several roads within the town and later the roads were tarred. Considering the nature of road network, linear type of settlement is more common compared to other types. From the data available 91.6% of the buildings obtained building plan approval before commencing construction which is a healthy development for any town. There are still cases where building laws and regulations are not carried out to the letter. Physical development of the major linear roads where access roads are not provided often develop into haphazard development resulting to congestion. This trend is now part of the character of the settlement which must be addressed immediately. There should be accessibility to all forms of development. Another fight must be declared against defaulter of development control rules and regulations especially developers who don't obtain building plan approval or have due regard for orders issued by the planning authorities. For the good works of the planning authorities to be appreciated. There is need for the town and country planning to respond spontaneously to the rapid growth of most built up areas. This will help reduce the cases of uncontrolled development.

RECOMMENDATIONS FOR DEVELOPMENT CONTROL PROBLEMS

The enforcement of the control laws and regulations constitute the major difficulties in this unit. Personnel involved in this area should be encouraged and rewarded as when due. Effort should be made to stream line the conditions for

carrying out responsibilities within this setting. Officers should ensure that undue excuses, delay and corruption should be avoided as much as possible. Also power vested in this office should not be abused as is often done through arbitrary refusal to grant approval. Genuine case must be treated promptly and innovative ideas that can help resolve any teething issue should be employed as when due.

Furthermore the urban and regional planning Decrees 88 of 1992 have not been put to test to ascertain the effectiveness of the law. Particularly some planning authorities have started its implementation; efforts should be made so that all concerned used the law as expected.

There is need for new and relevant, bye laws, edict, acts and regulations to channel the new course of challenges in the planning profession so that the gains associated with the discipline can be appreciated by all. Where possible, modern information techniques should be introduced so that computers can be used for development control exercise and the computer should be protected against virus attack. Internet; E-mail and other information methods should be made possible. Enhancing modern information strategies will help to eliminate and reduce unreliable and poor data formation for any purpose.

Officers in charge of information units should help release information to deserving clients who need it for research and other benefiting purpose after their certification. The housing computerization exercise at federal, state and local government level should be, intensified. It will help government to enhance their revenue base and further assist in resolving land acquisition procedures in rural and urban centers ensuring that land use act of 1978 and other relevant land laws are used as document of reference. This type of work will help government to formulate policies, reduce, unnecessary expenditure, assist in planning generally and predicting for the future.

This is the time when professionals in the building industry will have to come together to further educate their clients on the importance of following all necessary procedures, regulations, laws and directives attach to physical development exercise. This will help to resolve and evolve acceptable solutions to the environmental short comings. Architects play a major role when it comes to built up environment, they should ensure that other professionals are carried along with them. Thereby promoting cooperation and understanding on the essence to adhere to professional code of conduct and ethics when conducting their services. This will go a long way in easing out some of the problems associated with development control exercise.

More local planning authorities as a matter of urgency should be created in all states of the federation and where this is not possible zonal centers should be established for the purpose of executing these responsibilities. With the use of the Urban and Regional Planning Decree 88 of 1992 more job opportunities will be made available, professionals, non-professionals will be engaged.

As a matter of policy, infrastructural facilities should be provided in already existing settlements. In the case of emerging settlement the location is relevant; this decision will help reduce hardship faced by inhabitants in checking development of ghetto. Highlights of such provision in planning form will give a better result in term of actualization.

Considering the types of roads in most urban and rural areas. Most traffic congestion are linked to narrowness of the roads. Not withstanding, the inadequate set backs from existing building can be attributed to these problems. For future developmental purpose developer should leave adequate set back rather than insisting on building line in already built up area. For new lay out, standards should be observed so that services can be accommodated. Parking bay provision will help reduce traffic holdup along major streets.

In order to check the filthy and flooding associated with built up areas in most urban centers. Drainage system from buildings/existing structure should be channelled to central drainage system or soak away. Where drainage along the gutters are not existing. Government and communities should strive to provide such needs. For this will reduce erosion and flooding.

Every effort should be made to replace obsolete equipment in various units with new and

up to date type. This will enhance productivity, save time and improve the quality of end product. Funding is another aspect of planning that have not received adequate attention for a long time. With the latest development where we have environmental ministry and other related ministry. The tempo should be sustained so that units under development control can be well funded to carry out their responsibilities. Workers in this unit should be given more incentive to encourage them, because of the risk associated with their operation. Insurance scheme is another good exercise that can be organized for the workers.

Illegal subdivision of plot and designated spaces must be completely disallowed by inhabitants/property owners to prevent congestion and overcrowding.

The various organs of government, agencies and organization in charge of development control in various levels that will be allowed in each of these areas must obey the rules and their mode of operation must be well defined, structured and made available at the Town Planning Offices, Local Government Offices and various seat of government.

The computerization exercise in combination with applicable rules and regulations should be strengthened with more fully competent personnel and it must be a continuous exercise.

CONCLUSION

It is obvious that there will be new development originating from urbanization and economic fortune. For a development control exercise to be successful new ideas that will meet current and future needs must be integrated into their operation. In order to preserve already planned settlement and guide against others developing into slum. Development control unit must be accorded its rightful place in areas of planning.

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