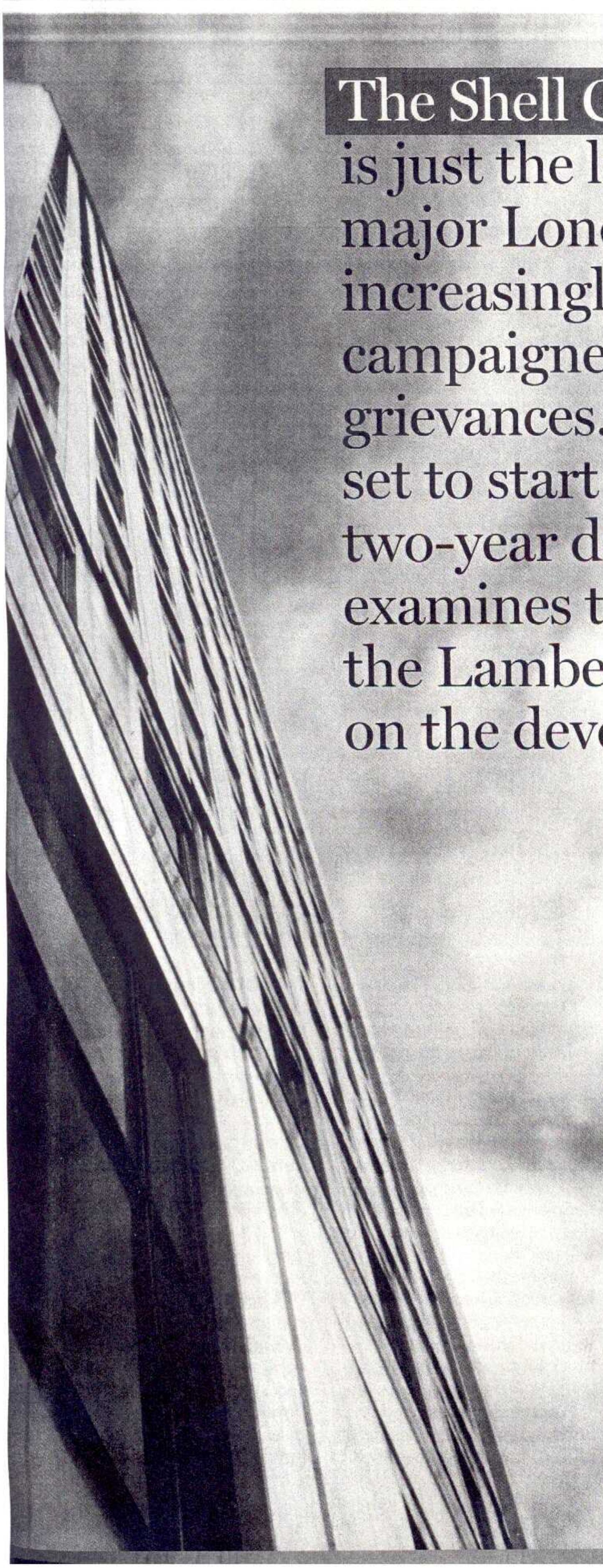


The Shell Centre redevelopment is just the latest in a string of major London projects held up by increasingly sophisticated campaigners and bitter political grievances. As the project is finally set to start moving again after a two-year delay, Jack Sidders examines the potential legacy of the Lambeth resident who took on the developers

This week, time ran out for George Turner. The Lambeth resident who has staged a two-year siege against Canary Wharf Group's and Qatari Diar's plans to redevelop the Shell Centre, SE1, finally abandoned his fight. As of Thursday 9 July, more than 28 days had passed since the Court of Appeal ruled against his latest attempt to block the £1.2bn project and the deadline to challenge the verdict expired.

But while his battle might have been lost, the war between developers and those who hold them up as the paragons of all London's evils still rages on. Even without an eventual victory, Turner's campaign signals a power shift – and the impact of the more sophisticated breed of campaigner.

Turner v Shell and a string of other recent London planning battles demonstrate how the use of social media and online funding platforms twinned with changes to the way costs are ordered in planning disputes can be used to throw some real spanners in the works of some of London's biggest schemes.

Turner might not have got the result he wanted, but he has single-handedly been responsible for holding up the 1.4m sq ft project for the past two years. He has cost the developers he has been fighting millions. And he has raised awareness online through his website, www.thebattleforwaterloo.org/ prompting an online documentary by the Drift Report which attracted more than 6,000 YouTube views and press coverage from the BBC, *The Guardian* and many more.

So what happens if this sets a precedent? With the social media tools readily available, and examples of successes, such as SAVE's victory over TIAA Henderson at Smithfield, fears are mounting that investors could soon feel the need to mitigate against such unexpected hold-ups.

And if financiers seek greater returns to justify the risk of delay, developers could be less able to provide planning gain such as affordable housing because sites will be less viable?

The sophisticated campaigner could inadvertently become part of the problem, with the threat and cost associated with the delays they cause potentially leading to fewer affordable homes and open spaces.

Local campaign

The Turner case is a good example of what a new, sophisticated local campaign looks like.

The self-described tax campaigner and writer was motivated, understood the planning system and, through his website and Twitter feed, connected with other campaigners who shared his concerns about the scheme.

"What we are seeing is there are almost professional objectors now who know the process and they are using that position to frustrate developments," says Nick Belsten, head of central London at planning consultant Indigo.

Then there is the impact of a significant legal change in 2012. Turner would probably never have been able to afford such a protracted legal battle were it not for the fact that, three years ago, the Ministry of Justice changed the way legal costs were applied as it sought to comply with the Aarhus Convention – which says access to environmental justice should not be "prohibitively expensive". In reality, that means an individual can bring a claim in planning cases and if they lose, their maximum cost liability is just £5,000.

But what about the impact? The Turner case has not upset the Shell Centre's own investment stream. Now the deadline for challenges has passed – two years after London mayor Boris Johnson added his approval of the scheme to that of the London Borough of Lambeth – and a wave of overseas investment will now pour into the rundown site in front of Waterloo station.

More than £500m from Italian-backed Almacantar will be spent on two of the proposed office blocks, while £200m will come from Elliot Rosenberg and his Russian backers to buy a 32-storey residential tower. They will help the State of Qatar and North American Brookfield, part owner of Canary Wharf Group, to finance the scheme.

But that is surely a reflection of the fact that the market has moved in their favour since the scheme was held up, with the subject-to-planning funding deals they agreed in 2013 now looking much more attractive.

Had it moved in the opposite direction, it seems likely they would not be going ahead. And had they known it would take four years from the original signing of the joint venture agreement to redevelop the site, would they have committed their cash? In short, what sort of precedent has this case set?

Significant impact

Helical Bar's development director, Gerald Kaye – the man charged with delivering the Bart's Square development next door to Smithfield Market, which faced its own heated public enquiry – suggests the impact could be significant. "If you take the cost of buying the property in the first place, the cost of the major planning application runs into the millions and some objector can come and, without any real risk of losing any money, can agitate for it to be called in – that's where it has got a bit lop-sided," he says.

"It just does seem very one-sided that, in the Shell case, one individual could cause such a major investment to be postponed after it had gone through the due process – it is not as though getting a planning consent is easy. It gets considered at a lot of levels.

"It creates uncertainty and discourages overseas investors to invest in these schemes."

Mike Rayner, head of development at major Canadian investor Oxford Properties, agrees that pricing risk is now harder.

"That uncertainty is definitely affecting people's decisions in terms of what they will pay," he says. "I think increasing planning risk does have implications for viability – it comes straight off the land value and you can't pay as much for the site as you were going to.

"What has happened with Shell and elsewhere does factor into our investment decisions."

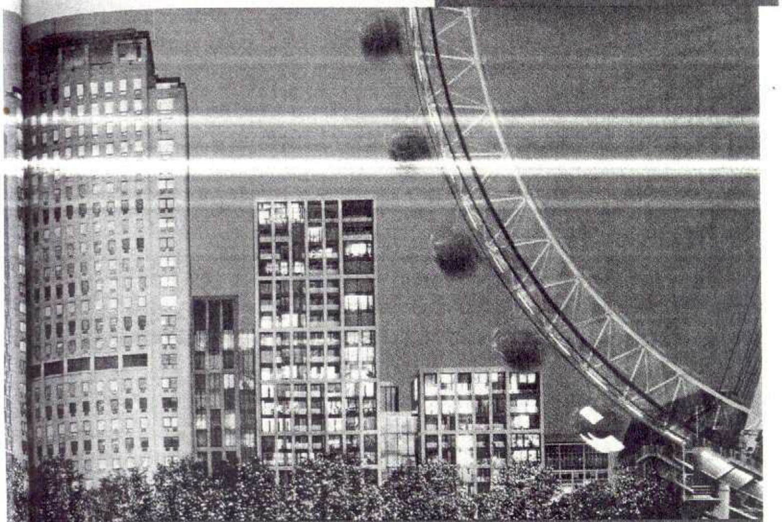
The Shell Centre

Smithfield Market

Combating call-ins

And, of course, this issue is not based on the story of one project. While the developers a Shell may be hugely frustrated by the delays they have had to face, they have fared better than some other recent London schemes that have since been called in on the bac of savvy campaigns.

TIAA Henderson and AimCo found their plans to redevelop Smithfield Market, EC1, rejected by a planning inspector despite the developers having secured the approval of English Heritage and local authority the City of London Corporation. In that case, it was a celebrity-backe public campaign from



INVESTOR IRRITATION

The developers and investors behind the Shell Centre declined to comment on the case. But before news of his involvement was broken by *EG*, Almacantar boss Mike Hussey made his thoughts on the call-in clear on Twitter:

Mike Hussey @Mr_Property_W1 23 Sep 2013
Politicians should consider the impact on investor confidence of more planning delay and political interference.

Mike Hussey @Mr_Property_W1 6 Sep 2013
The end of a wonderful Summer met with the end of Localism? Call-ins will kill investment if they are not understood.

Protest at proposed Foxtons in Elephant and Castle

conservation group SAVE Britain's Heritage, with reams of media coverage, that called for a redesign.

And in May this year, a few weeks after Westminster city council approved the redevelopment of King's College's Strand campus, outraged press comment quoting SAVE Britain's Heritage was followed by Historic England changing its stance about the redevelopment not causing substantial harm and secretary of state Greg Clark calling it in.

Meanwhile, across the river at Lend Lease's regeneration of Elephant & Castle, local campaigners have been sticking the knife in about the developer's inability to tackle London's growing unaffordability.

Chief among the campaigners' grievances is the issue of viability and the volume of affordable housing that will be provided. Lend Lease has agreed with the local council that 25% is viable, a level the campaigners argue is well below the council's own target. And the forced publication of the developers' viability assessments, showing the pricing assumptions used when the scheme first went through planning, look conservative in today's market.

But most attacks on the scheme, including a recent *Guardian* essay based on the leaked viability reports, fail to point out that it is a decade-long project which was a further five years in negotiation, and while prices have risen since the development agreement was signed, Lend Lease will inevitably face a downturn at some stage during the £1.5bn scheme's construction.

Before signing the development agreement with Lend Lease, Southwark had been in talks with other developers, but none had been able to make it work financially. The council concluded it must accept a lower level of affordable housing contribution to make the scheme viable – perhaps as little as 10% – but with clawback mechanisms built in should market conditions improve.

Instead, Lend Lease committed to a 25% guarantee for the life of the project on the basis that its investors wanted as much certainty as possible when undertaking a project over such a long period. Having signed the agreement, it could have sat back and waited for the market to rise, as most agents were rightly forecasting it would. But instead, it got on with delivery and it is now well under way with its transformation of the area.

Lend Lease's project director at Elephant & Castle, Rob Heasman, says: "The regeneration of Elephant & Castle is already having a significant positive effect on the local area. Nearly 1,000 homes of mixed tenures are either completed or under construction and momentum is building.

"This is a very large and complex scheme, with a cost and risk profile to match. We are committed to delivering 25% affordable housing, irrespective of market pressures over the 10-year life of the project."

If it is true to say the planning environment has become more difficult for controversial London projects in the years since Lend Lease's development agreement was signed, it is worth asking how that would affect the sentiment of the company's shareholders were it negotiating on the scheme today.

It seems likely it would have resulted in a lower price paid to the council for the site, and fewer public benefits delivered.

So why have so few in the property industry been willing to communicate these arguments?

Individual developers have kept their heads below the parapet, mindful of their next planning meeting or the risks of attracting attention from campaign groups. But with the campaigners apparently using the new tools at their disposal to outmanoeuvre the development industry and only likely to become more sophisticated as their experiences are shared, this tactic seems increasingly dated.

Hearts and minds

The industry must engage quickly in the battle for hearts and minds because shying away from the fight seems like a losing tactic. It is a harsh lesson for developers like those behind the Shell Centre, where a huge public consultation was undertaken, yet still the scheme fell foul of a single motivated campaigner.

It is essential that the industry as a whole learns how to espouse the benefits that development brings.

"What I don't think we are good at as property developers is making the case of just what benefit these big schemes have in terms of Section 106 and CIL payments," says Kaye.

Irvine Sellar, the man who successfully navigated London's tallest building through planning and a public enquiry, agrees, arguing that, now more than ever, it is essential to communicate the wider benefits that a scheme brings to the economy.

"I feel it is important the property industry recognises the positive impact developments have on local communities and be ready and willing to commit time and effort in communicating those benefits," he says.

WATCH A VIDEO OF THE SHELL CENTRE SAGA AT HTTP://BIT.LY/SHELLCENTRE