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Planning, value(s) and the market: An analytic for "What comes next?"

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Planning, value(s) and the market: *An analytic for "What comes next?*

Abstract

For 30 years planning has been attacked both rhetorically and materially in England as governments have sought to promote economic deregulation over landuse planning. Our paper examines two new moments of planning deregulation. These are the loosening of regulation around short-term letting (STL) in London and the new permitted development rights (PDR), which allow for office to residential conversion without the need for planning permission. Whilst these may be viewed as rather innocuous reforms on the surface, they directly and profoundly illustrate how planners are often trapped between their legal duty to promote public values as dictated by national planning policy and the government's desire to deregulate. We argue that viewing these changes through a value-based approach to economy and regulation illuminates how multiple and complex local values and understandings of value shape planners' strategies and actions and thus vary national policies in practice. In so doing, the paper demonstrates how planners have, at least, the opportunity to develop a critical voice and to advocate for policy interpretations that can help to create better outcomes for local communities.

Keywords

Neoliberalism, deregulation, London, short-term letting, permitted development rights

Introduction

Over the past thirty years or so, successive governments have sought to reshape planning in England, moving it away from its roots of public interest, local context and discretionary decisions toward more economic growth-based paradigms which rely on deregulation and market forces (Rydin, 2013; Allmendinger, 2016; Muldoon-Smith and Greenhalgh, 2016). These waves of reforms have led planning to be viewed as an easy target or 'political football' (Haughton, 2012) that can be repudiated, re-articulated and reformed by each in-coming administration based on their particular conceptualisation of how the market and societal values should interplay. Amongst mainstream planning literature, these market-oriented shifts have often been understood through the lens of neoliberalization or variegated neoliberalism (see Allmendinger and Haughton, 2013; Lord and Tewdwr-Jones, 2014). However, whilst this framework is explanatory to an extent, the growing tendency of some critical neoliberalism scholars to implement neoliberalization as a catch-all term that reduces heterogeneous landscapes of social, economic, politi-

cal and cultural practices to a single, market-dominated genus (Barnet, 2005) has, as Storper (2016) and Venugopal (2015) underscore, impeded its analytical capacity – potentially stretching the term beyond its usefulness. As a result, theories of neoliberalization have been substantially weakened in providing fuller and nuanced understandings of the various tensions and complexities present in the waves of reform that are underway in the UK planning context, as-well-as the resistance to and re-articulation of these reforms by planning practitioners.

Perhaps compounding such analytical issues, some scholars have viewed the increasing normalisation of market values through the lens of post-politics (Swyngedouw, 2009; MacLeod, 2011; Allmendinger and Haughton, 2012; Clarke and Chochrane, 2013; Haughton *et al*, 2016), which asserts that moves toward collaborative or consensus based planning has favoured the market by limiting dissent and constraining "who can say what, when and how" (Rancière, 2000 in Haughton *et al,* 2016: 477). Indeed, although these accounts are revealing, they have been critiqued for their rather limited view of political action (Mitchell *et al,* 2015). Moreover, we contend that the post-political frame does not pay enough attention to how neoliberal policy measures get varied at the local scale as policy is interpreted, made meaningful and put into practice in-and-through a "...much broader spectrum of evaluations, values, understandings and practices of value"

(Pani, 2017: 8). This is important as appreciating how diverse values shape policy in practice may provide a firmer foundation for addressing Ferguson's (2010: 167) important question, *"what do we want",* and Pollard *et al's* (2016: 872) enjoinder to imagine *"what comes next"*. We therefore implement a value-based approach to economy and regulation that allows us to illuminate and cope with the complexities of how certain top-down planning policies have sought to impose a neo-liberally informed market rationale but have been confronted by a diversity of values at the local level (Lee, 2006; Holman and Ahlfeldt, 2015; Pani, 2016, 2017; Pollard *et al,* 2016).

Following this approach, the paper will examine two recent and innovative moments of planning deregulation: the loosening of regulation around short-term letting (STL) in London, and the new permitted development rights (PDR), which allow for office to residential conversion without the need for planning permission. Whilst these may be viewed as innocuous reforms on the surface, we argue that the incursions directly and profoundly illustrate how planners are becoming increasingly trapped between their legal duty to uphold existing public values as dictated by national planning policy (which is then inscribed locally via the plan-led system) and both the Conservative-led coalition (2010-2015) and the current Conservative Governments' desires to set markets free (Gunder, 2016; Grange, 2017).

Put another way, this most recent governmental turn towards the market makes it increasingly difficult for planners to uphold their existing statutory responsibilities, creating classic tensions between competing and conflicting values within planning as a profession.

We argue that this wave of deregulation represents a new assault on planning by central government, which moves beyond a mere rhetorical attack by further solidifying an antagonism between the market and regulation at the local level. Given this, we contend that there is a potential loss of, first, the value of planning (in terms of its purpose as a regulatory profession) and second, of the existing ideals that planners are being asked to uphold - in this case the provision of adequate land for housing and employment alongside targets for affordability and density within their jurisdiction. However, as we argue in the following sections, as government policy is interpreted, made meaningful and put into practice in and through the specific contexts of situated actors, so multiple and complex local values and understandings of value will shape the planners' strategies and actions. As such, opportunities exist for planners to take up and advocate for what Grange (2017: 278) calls a "critical ethos" that would allow policies

to be shaped in other ways leading to potentially better outcomes for local communities.

This article is organised as follows. Section 2 introduces our attempt to move beyond the neoliberal lens so predominantly used to explain regulatory processes of marketization and instead implement a value-based approach to understanding the complex interplay between planning policy and practice. Section 3 presents our research findings on STL and PDR changes in four inner London boroughs reflecting on how these changes are reformulating planning and the values it seeks to uphold. Section 4 offers an alternative to viewing planning and regulation as mutually exclusive entities and proposes new ways forward for the profession.

Moving beyond neoliberalism

Neoliberalism can be understood as a political ideology that focuses on creating and releasing value by freeing markets from unnecessary regulation and state intervention whilst concomitantly creating the conditions for stimulating economic growth through competitive, capitalist markets (Brenner and Theodore, 2002; Brenner et al, 2010; Peck et al, 2012). Thus, unlike previous models of *laissez-faire* economic liberalism, Harvey (2007) reminds us that the neoliberal project delineates a limited but active role for the state in that it is called upon to structure and

preserve an institutional framework within which the central value of market freedom is assured and fostered (see Peck and Tickell, 2002 on 'roll-out' neoliberalism). The potential potency of this apparently paradoxical coexistence to dominate the evaluations, actions and activities of urban and public managers – indeed, *any* individual and/or organisation as they practice *any aspect* of socio-economic life – has often been explained through a Marxist or Gramscian approach to political economy as-well-as their reconciliation with Foucault's concept of governmentality – the former supplying the 'real' material and social mechanisms through which neoliberal hegemony is reproduced and Foucauldian theory the specification of the technical instruments and techniques that guarantee its operation by self-regulating subjects (e.g. Brenner and Theodore, 2002; Brenner et al, 2010; Larner, 2000; Ong, 2007; Peck and Tickell, 2002; Peck et al, 2012; Sum and Jessop, 2013).

Theorising neoliberalism's pervasive capacity to impose a "market mentality" in the realm of planning, some post-political scholars (Swyngedouw, 2009; MacLeod, 2011; Allmendinger and Haughton, 2012; Clarke and Chochrane, 2013; Haughton *et al*, 2016) have sought to illustrate how, through the art of consensus, planning has become denuded of politics, in that fundamental conflict has given way to a "flattening of language" where all stakeholders interests are, seemingly, given equal say regardless of any objective reality (see Mitchell *et al*, 2015 for a critique).

This marginalisation of protest then provides government policies that privilege economic growth and marketization with the sheen of legitimacy that is only tarnished when one considers the constraints on implementing other ways forward. In this light, planning and thus planners are reduced merely to the role of market facilitators rather than having any part in looking after the public interest.

There are, however, significant problems with readings of neoliberalism as a hegemonic ideology that has seemingly redefined the relationship between states, society and individuals and apparently transformed public policy in such an all-encompassing way (Storper, 2016: 242). Certainly, as Barnett (2005) has argued, the technical aspects of *how*, exactly, neoliberal projects are able to maintain mechanisms of evaluation and subjection 'at a distance' in environments where social relations and subjectivities are otherwise free, are deeply problematic. Moreover, through such overtly economistic renditions of political economy and statist accounts of governmentality neoliberalization as an analytic has squeezed out any thicker sense of social relations, reducing them to nothing more than 'residual effects' of hegemonic governmental projects (Pani, 2016: 53; see also Barnett, 2005; Barnett et al, 2008; Storper, 2016; Venugopal, 2015). Thus, for example, the post-political framework falls foul of providing a somewhat two-dimensional picture of state-society relations by ignoring the rather more empowering aspects of gov-

ernmentality, which Foucault spoke of as "the art of not being quite so governed" (Foucault 2007: 57 quoted in Grange, 2017: 278). By focusing only on moments where "techniques of consensual persuasion" are employed (MacLeod, 2011: 2648) post political theorists omit those times where, through protest, lobbying and action, market-based policies are altered locally. As a result, "neither political economy- nor governmentality- inspired theories of hegemony have been able to provide adequate insights into the complex interplay between society and polity in the seeming re-production of neoliberal domination" (Pani, 2016: 13).

A value-based approach

Implementing mainstream accounts of neoliberalization or moving to the post-political, thus binds researchers to a theoretical immobility that unconsciously constrains the imagination by depriving planning of its propositive rationale. Of course, some may consider this to be an ideological manipulation effectively put in place by neoliberal discourses and strategies. However, the 'oppositional approach', which Ferguson (2010) criticises for being merely "anti-", beyond raising a legitimate indignation, is not prone, or able, to develop a *"positive conception of what should come next"* (Pollard *et al*, 2016: 872). Moreover, in order to prefigure a move from the status quo – being proactive rather than reactive or, even worse, completely passive – those who value a more progressive planning system must figure out how to consolidate and materialise what it is they would like to achieve.

Certainly, as we will demonstrate through our empirical work, there are problems with notion of "what comes next" (Pollard *et al*. 2016: 872). However, addressing this normative question in relation to planning policy and practice requires an examination of the complex interplay between society, economy and polity – in particular the shifting political, social and material relations of value and values that give form to the always-emerging socio-economic contexts in which planners must operate and, indeed, to the planning profession itself (Lee, 2006, 2011; Holman and Ahlfeldt, 2015; Pani, 2016, 2017). The planning system exists to both enable and regulate the growth and development of communities and the use of land, in theory, in the public interest. As such, Rydin asserts that planning is "a means by which society collectively decides what urban change should look like and tries to achieve that vision by a mix of means" (2013: 12). Further, planning operates on an ever-changing landscape influenced by multiple endogenous and exogenous factors. It therefore provides, and is provided, both opportunities and constraints to and by the material and social relations of its specific contexts – both economic and *non*-economic.

Our value-based approach to examining planning policy and practice takes seriously the shifting politico-socio-economic contexts in-and-through which planning is both practiced and shaped. However, unlike theories of neoliberal hegemony it doesn't privilege the economic over the multiple and diverse values, ideals and beliefs that society seeks to uphold through planning regulation. Instead, it takes the practice and performance of both value and values seriously, without eschewing one for the other; thereby enabling a deeper un-

derstanding of what might come next for the profession (see Holman and Ahlfeldt, 2015, for a preliminary application of this approach to planning in UK Conservation Areas).

We chose to look at the loosening of regulation around short-term letting (STL) and the conversion of office to residential use without planning permission via permitted development rights (PDR) for two key reasons. First, both policies were discursively constructed by successive Governments as essential measures through which 'unnecessary' planning regulation could be relaxed to enable market forces to flourish. Second, the unplanned conversion of office space to residential use and the ability to rent on a short-term basis would potentially constrain planners' choices regarding what could happen within the context of development (Campbell *et al,* 2014). We contend that both policies aimed to weaken planners' discretion and the plan-led system by challenging more holistic and public-oriented planning values through the privileging of market values and the orientation of planners' evaluations towards market metrics. However, as our research will demonstrate, in reality the movement from policy to practice involved a far more complex tapestry of evaluations, values and practices of value.

Planning deregulation in four London boroughs

Methods

Our research implemented a multi-method approach to data collection and analysis. This included several preliminary roundtable discussions with planning offic-

ers from across London, developers, the GLA, think tanks and Central Government on directed topics like planning certainty and the relationship between the GLA and the boroughs. We used these roundtables to frame our thinking regarding the various problems faced by councils in the context of the housing crisis and continuing moves to deregulate planning. We then moved our focus specifically to four inner London boroughs: Westminster, Islington, Camden and the Royal Borough of Kensington and Chelsea where the issues of short-term letting and office to residential permitted development rights were more acute. Here we analysed planning documents relating to both short-term letting and PDR including reports submitted to the borough's housing scrutiny committees and applications for Article 4 Directions regarding PDR. We conducted interviews with 11 key informants across the four boroughs (interviews lasting between 60-90 minutes). In addition, we undertook field observations with the planning enforcement team for short-term letting in Westminster.

Privileging market values: the rationale for deregulation

Prior to March 2015, STL (defined as renting part or all of a property for less than 90-days in a calendar year) was prohibited in London unless householders applied for a change of use through the planning system. Although this policy may be viewed as overly restrictive, it was based on the belief that, given the popularity of

London as a tourist destination and given the pressure the capital felt in providing permanent housing to its population, allowing short-term letting could lead to a "creeping conversion of residential dwellings to hotel accommodation" (HC Deb (1982 -23) cc1035-63). In view of London's perennial housing supply problem, the hidden and difficult to enforce nature of STL, and the financial attraction of letting to holiday-makers rather than longer-term tenants and workers, STL was under-stood as a significant problem for both London's residents *and* its economy. As the MP for St Pancras North, Mr Stallard, noted:

> *"All of us must be concerned about the erosion of permanent living accommo-dation in that way when the housing situation in London is so serious… Any erosion, for whatever reason, of remaining parts of residential accommodation must be viewed by all hon. Members with the utmost seriousness"* (HC Deb (1982 -23) cc1035-63).

The existing regulation of STL in London was largely supported by central gov-ernment until 2015 when the Conservative Government took power and an-nounced its "red-tape challenge" designed to remove 'unnecessary burdens' from business, and make the lives of ordinary Britons 'easier'. On the subject of STL in London the Government wrote:

"Government is taking forward reforms to modernize this out-dated legisla-tion[1], so that residents can allow their homes to be used on a short-term basis without unnecessary red tape" (DCLG, 2015).

Indeed, the 1973 Act was described as "*bureaucratic and disproportionate*", reflecting a neoliberal conception of planning as an obstacle to both the corporative and individual entrepreneurial spirits that drive economic growth (DCLG, 2015). In this new vision, STL regulations were seen not only as detrimental to London's tourism industry but also as a break on its residents' ability to generate extra income from releasing the latent value in underutilised spaces in their homes. Discourses concerning the impact to the public good through the loss of permanent housing units and "creeping conversion" to hotel accommodation were muted if not absent in favour of the individualistic language of hard-working families enjoying the production of economic value from their assets via their inclusion in a market for tourists.

The discourse around the relaxation of office to residential conversions via PDR used both the language of limiting regulation and of the housing crisis to justify policy change. Then Communities Secretary, Eric Pickles, commented that conver-

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[1] Greater London Council (General Powers) Act 1973 prohibited the use of residential property in London for short-term sleeping accommodation without a change of use.

sion would 'swiftly' create "much needed housing" and promote economic growth by creating a more 'responsive' planning system that would "get empty and underused buildings back into productive use" (Pickles, 2013).

Again, planning was discursively constructed as a constraint on market forces, with a "swift and responsive" system being favoured to one that assesses and manages land-use based on the evaluation of a range of evidence and the ideals of creating economically, socially and environmentally cohesive and sustainable communities. Moreover, value extraction and creation were central rationalities, where 'underused' office space would be more quickly released into a higher-yielding market to become more economically productive. However, as we demonstrate later in this section, the discursive construction of "underused" and "empty" as value metrics was, itself, hollow as in fact the policy changes were applied to <u>any</u> office space – not just that which is underutilised.

Valuing planning: opportunities and constraints

Gauging by these two policies, it would appear that central government was sending unambiguous signals about the value and role of planners and planning policy. Namely, that planning should support and follow market forces without regard to the overall impacts they may have on more socially focussed or progressive values – like the ideals of creating economically, socially and environmentally cohesive

and sustainable communities via land-use planning. Importantly, both STL and PDR would significantly constrain the policy choices available to planners and thus restrict the materialisation of other values.

However, these are not the only policies through which central government has framed how planners should behave and what values they should uphold. Planners also must follow statutory planning duties as set out by the National Planning Policy Framework (NPPF). Although this document has been challenged for its reproduction of neoliberally-informed doxa (See Bourdieu, 2003; Peck and Tickell, 2002; Peck, 2010; Peck, 2012; Temenos and McCann, 2012; Mace, 2016), it still supports the functioning of a plan-led system as it requires planners to ensure that there is sufficient land allocated for housing and economic use – allowing them, under the guidance of the London Plan, to set targets for housing affordability and density. In so doing, the NPPF gives planners agency in the application of development goals within their local areas as it enables them to make discretionary decisions via the nationalisation of development rights, which are eroded by PDR but not removed in their entirety. Furthermore, the local planning system is meant to ensure that evaluations are made, as far as possible, in conjunction with local residents. Thus, it is worth noting here (and this is a point that will be taken up later), that STL was seen by planning officers in all four boroughs as a 'priority issue' be-

cause residents, amenity societies and tenant groups consistently voiced concerns regarding the potential disamenity and loss of permanent housing stock caused by STL – both of which would negatively impact the local community.

Impacts and tensions of policy changes in the boroughs

Although the press releases and statements made by the coalition Government regarding PDR all referred to the value of bringing under-utilised or disused office space back into economically productive use, the reality of the policy was quite different. Nowhere in the regulation was there any provision to distinguish between redundant and economically viable office space (London Councils, 2015; Muldoon-Smith and Greenhalgh, 2016). In fact, in an early study conducted for *Planning Resource,* a full 25% of applications were being made for *already-* occupied offices (Geoghegan, 2013). This is not surprising, as conversions made via PDR effectively remove the conversion of offices from the plan-led system, freeing up their value-potential to the market and allowing *it* to arbitrate the development needs of the area.

According to our interviewees in the four boroughs, the loss of employment land concerned them gravely as each faced significant losses of B1 office space[2] under this change. For example, London Councils (2015) had reported that Islington was in-line to lose 53,000m[2] of office space between 2013-16 with Camden loosing 57,000m[2] in the same period. Again, and as our interviewees noted, this was not merely empty or underutilised space meaning that planning for future employment growth would be hard, if not impossible, for local planners. As a planner in Islington noted:

"In the current pipeline […] there is a definite net loss, and at the same time there is all of the employment data […] which shows massive future job forecasts. I think it's something like 50,000 more through to 2036 […] Most of those, I think around 30,000, are in offices, and obviously, there are other types of jobs as well; but we have to find a huge amount of floor space in the future for additional office capacity" (Planner_1a_Islington).

According to evidence produced by Camden Council for the Secretary of State requesting an exemption from this policy change, the primary motivation for this swathe of conversions was obvious: *economic value*. Indeed, they demonstrated

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[2] B1 office space is typically for research and development of products and processes and light industry appropriate in a residential area.

that developers could easily see uplifts of over 100% in value returns from their properties when converting offices to residential (TBR, 2014). In addition, PDR conversions would not be subject to planning obligations (Section 106 agreements), which are designed to set affordable housing targets, compensate for any damage created by the development, and mitigate any adverse impacts of the development on things like public transport and schools. For the developer, this would further maximise profits by creating a clear rent-gap (Smith, 1996) through which value can be extracted. However, for the planners it would severely impact their capacity to provide more socially oriented goods.

The interviewees also underscored how these regulation changes were impacting their ability to plan for housing and employment in an integrated way. Since the implementation of PDR effectively removed the decision-making process from the local planning system, locally developed policies based on ideals such as promoting housing affordability and creating adequate opportunities for employment, were being crowded out by the value of market-led conversions. As one Camden planner commented:

> *"Well, the changes do significantly impact in terms of getting the right proportion of housing, affordable housing, and the quality of housing, and also in*

terms of making sure that we are keeping our economic activity alive" (Planner_1a_Camden).

Camden's planner explained this further by discussing the knock-on effects that PDR changes would have on the type and quality of available commercial floor space, noting that, for Camden, the largest changes they were witnessing was in office space for SMEs. This meant that the remaining commercial stock was becoming more expensive, local businesses were being pushed out, and that valuable vibrancy and diversity was being lost (Planner_1a_Camden). Indeed, the idea that as planners they could no longer deny an application to convert office space to housing – *especially where their evidence suggested a real demand for the former* – was viewed as a restrictive and unwarranted incursion on their professional capacity to plan and deliver wider societal benefits. And this starkly counterpoised their understanding of the social value of planning vs. more market-oriented values. As one planner from Islington commented:

"In some ways I think planning is almost impossible right now […] and the question is to what degree it can be deregulated and still be meaningful at the local level" (Planner_1a_Islington).

However, attempting to regain some of their meaning, the boroughs submitted evidence to the Secretary of State requesting Article 4 exemptions for all or part of

the office properties within their boundaries; and, ironically, they based their arguments on policies contained in the NPPF. For example, Camden asserted that the NPPF required the council to "build a strong, competitive economy", "deliver a wide choice of high quality homes" and to "ensure the vitality of town centres" – none of which it could do if it was forced to allow developers to pursue market values through PDR (Camden, 2015). In this way, the boroughs pushed back against the short-term logic of profit-maximisation with more long-term and holistic planning ideals. As a result, despite its apparent neoliberal logic, the NPPF provided a vital evidence base for the boroughs to counter office to residential PDR, highlighting that even where there is an attempt to "…impose a neoliberally informed market hegemony" there is often an immediate variation of policy as "…multiple and diverse values and understandings of value" shape actual practice (Pani, 2017: 8). In this case, even a highly pro-growth, market-oriented document like the NPPF helped to produce variegations in neoliberal policy.

Whilst the language of housing crisis was used in part to justify the change in PDR, the deregulation of STL in London was promoted almost exclusively as a way of freeing up the economy by limiting unnecessary bureaucracy – echoing the 'roll-out' neoliberal agenda, which has been present in planning for over thirty years (Lord & Tewdwr-Jones 2014). Through the new legislation London would be ena-

bled to "catch up with the 21st Century way of living" by embracing new technologies and 'the sharing economy' (DCLG, 2015). In his press release the then Minister for Housing and Planning, Brandon Lewis, stated:

> *"The government wants to enable London residents to participate in the sharing economy, and enjoy the same freedom and flexibility as the rest of the country to temporarily let their homes, without the disproportionate burden of requiring planning permission. It will provide income to householders who want to rent out their home – for example, if they themselves go on holiday"* (Lewis, 2015).

The discourse implemented by the Government differed very little from that used by companies like Airbnb, where hard-working families are shown renting out spare rooms and welcoming foreign travellers into their homes (Airbnb website, https://www.airbnb.com). However, in-so-doing the Government ignored the risks that an unconditional embracing of this discourse might hide; and much like the case of PDR, the rhetoric did not match reality once the policy was implemented.

Similar to many cities where on-line platforms have taken hold in the STL market (see New York in Schneiderman, 2014), the experience and reality of deregulation in London appears different from the original presentation of occasional, family based lettings. Rather STL would seem instead to entail "...*very aggressive market-*

ing trying to get additional properties by Airbnb and others" (Islington_Planning_Officer_a). Or as so well put by and enforcement officer in Westminster:

> *"There is strong evidence that we are dealing with a business use of a property rather than this "mythical" hard-working family that is earning a few bob when they're on holiday. Well, you know if a hard-working family can afford a three-month[3] holiday then they are very hard working! When the Deregulation Act was going through Parliament every councillor and almost every MP spoke out against it"* (Westminster_Enforcement_Officer_a).

Fundamentally the problem with the deregulation of STL is that the potential profit that can be made renting on a short-term basis is far higher than traditional letting. Moreover, the ability for councils to monitor and enforce the 90-day rule is severely constrained by the way in which the policy was introduced, as there is no register or mechanism for the Council to know when a property is being let on a short-term basis. In addition, even if the rules are adhered to completely, as the 90-days runs throughout the year properties are effectively removed from the rental market and are not available anymore for more traditional letting. There is thus a tem-

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[3] Refers to the new 90-day rule in London.

poral disparity between government policy and the reality of practice; and this manifests spatially at the local level as a disparity of planning values.

INSERT FIGURES ABOUT HERE

Looking at **Figure 1** the average rent for a 1-bedroom flat for a standard tenancy ranges from £49/day in Islington to £67/day in Royal Borough of Kensington and Chelsea (RBKC) (£343-£469/week). The price per day for the same type of flat on a STL basis runs from £150/day in Islington to £178/day in RBKC (£1050 - £1246/week)[4]. The increased profits renting short term was not a topic lost to our interviewees. As noted by an Islington planner:

> *"Some of the properties that we have been researching can be around £200 a night – and obviously, it depends on whether you're taking it for just one night or a week. These are massive amounts of money, so no monthly rent no matter how high can compensate for that"* (Islington_Planner_a).

Interviewees also made the link between the profitability of STL and the potential loss of permanent dwelling stock. The planner from RBKC discussed the borough's popularity as a residential location, its housing target (733 dwellings/year) and

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[4] Source for all rental data: https://www.london.gov.uk/priorities/housing-land/renting-home/rents-map. Source for indicative prices for Short-term letting: www.airbnb.com

their demonstrable need for affordable housing, stating that "*having short-term lets would mean that they are not permanent dwellings: those are taken out of our existing stock*" (RBKC_Planner_a). Even more forceful were the words of one Camden planner who reflected:

> "*We've got all of these buildings going into part time residential use and people are letting them out contrary to the legislation - or, within the bounds of the legislation - and yet we've got a waiting list of housing tenants however many thousand-long and we can't fulfil it.* [....] *I mean the whole thing rather flies in the face of central government policy approach to housing*" (Camden_Planner_b).

Whilst in theory the renting of rooms or homes on a short-term basis for a time limited period (in this case 90-days in a calendar year) by the homeowner or council tax payer should not constitute a loss of permanent dwelling stock, the evidence[5] would suggest that many properties are being used exclusively for the purposes of STL. In fact, this temporal problem was identified when the Deregulation Act went through Parliament. As observed by Lord Tope:

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[5] Evidence on the number of nights stayed for individual flats is difficult to obtain. Using data from Inside Airbnb (http://insideairbnb.com/index.html) based on guest reviews, all four boroughs show average stays/year ranging from 92-116 nights. Councils frequently use this method for gauging rates of overstays in their boroughs.

"How will a local authority be able to identify and therefore enforce against a property being let for the 91st day within a calendar year? [...] Unless we have some sort of notification and registration process, it is simply unenforceable, whatever else we say and do" (Hansard, 2015).

Turning now to the numbers we can see why these fears may well be founded. Taking Airbnb[6] as an indicative marker for the growth in the STL market in London we see in **Figure 2** percentage of entire homes (as opposed to single rooms in a home) let out through Airbnb. **Figure 3** shows the rise in the number of listings on Airbnb from November 2013 to March 2016 for each borough. **Figure 4** shows the number of properties that are considered multi-listings indicating that the individual listing the property has more than one property on the website. These figures are interesting in that, whilst limited to the rental platform of Airbnb, they help indicate the growth of the uptake of STL in each of our boroughs. Given the scale of listings from **2182** in Islington to over **3600** in Westminster we can also see why enforcement of the 90-day rule, as predicted, is problematic. This difficulty was repeatedly reflected in our interview data. As Camden's planner stated:

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[6] Data was provided by Murray Cox, creator of Inside Airbnb, and Tom Slee, author of "What's Yours is Mine: Against the Sharing Economy" (2015).

"Since the legislation change in May 2015 we kind of feel that our hands are slightly tied behind our backs, and obviously, you are limited in terms of how much and how you can investigate. Whereas there was a zero tolerance policy before, this 90-day rule means that it is nigh on impossible to prove that some-body is in breach. It is almost an unenforceable condition. Politically, we need to be seen to be doing something; but in reality, it is very difficult in just dealing with the enforcement side of things. The new law doesn't help us to enforce it; it doesn't help us chase it" (Camden_Planner_b)*.*

In part the reason for this comes from the nature of the English planning system, which is reactive rather than proactive, relying mostly on the general public to re-port breaches (Harris, 2013; Holman and Ahlfeldt, 2015). All the boroughs noted that their ability to detect problems relied on residents reporting alleged breaches. As Camden's planner commented, *"without the harm factor [...] If they don't report things to us we can't go and investigate them"* (Camden_Planner_b). This was tied to larger issues of housing need by RBKC who stated:

"There might be a lot of short-term letting happening, but if it's not causing a nuisance we probably won't know about it. So, although we may not be suffer-ing from the first problem that I said about in terms of amenity, we might,

without realising it, be losing a lot of our permanent housing stock" (RBKC_Planner_a).

Even in Westminster, a borough that has a large historic problem with STL, where a dedicated team of six officers regularly research and go into the field to detect infractions, the tensions were clear:

"So, the nature of the job in the olden days was to detect short-term letting by knocking on the doors asking people: "When did you come? When are you leaving? How much are you paying?" And if we found that the answer was that they were staying less than 90 nights, we would send a warning letter to the owners and then carry on visiting. If we continued to find evidence of short-term letting, we would serve an enforcement notice, which would say, "stop short-term letting" and "breach of an enforcement notice is a criminal offence. With the 90-day rule things are far more difficult to prove" (Westminster_Planner_a).

All of this speaks to the difficult position planners find themselves in with respect to both STL and PD rights in the capital. On the one hand, the plan-led system enjoins planners to ensure a sufficient supply of land for housing and employment in order to protect wider public values. On the other, the tools they have to prevent loss of this valuable land are becoming evermore strictly curtailed in favour of market-based policies that allow for the extraction of value through rent gaps

(Smith 1996), which would not have existed had policy not changed. This left many councils reflecting on the constraints they now faced in delivering their statutorily mandated and locally developed plans, and the multiple and often conflicting values they were obliged to uphold. As noted by Islington:

> *"You know, you spend years working on your local plans and then one government announcement comes out and it's a national policy and there's no phased introduction, and there's no looking at how you can address this issue through your local plan; so, before you know it, key parts of your local plan are undermined. And at the same time you've got to plan for housing growth, and at the same time you've got to plan for economic growth and then social infrastructure and everything else, and a key part of your ability to do that is taken away"* (Islington_Planner_b).

Collective resistance and policy variation

One might ask then, if the consequences of freer STL in London and the changes in PDR were so clearly problematic, did London's planners and policy makers propose alternatives through organised and concerted effort to resist these policies? Did they possess what Grange would call a 'critical ethos' that would allow them to "contribute to creating spaces where the political [could] play out in other ways" (2017: 278)? In fact, they did; and in both instances the London boroughs (regard-

less of political colour), joined by the Greater London Authority (GLA), put forward a resistance based on their own evaluations of the value of planning as a statutorily enforced regulatory profession engaged in upholding the public interest. Although they were not wholly successful, they were able to vary the policies through the consolidation of a different set of values. In the case of PDR, gains were made that allowed the boroughs to exempt some or, in the case of RBKC, all of their office provision from conversion to housing without planning permission. For STL the picture was less immediately positive, but their efforts to collectivise around shared ideals has provided an on-going platform for provoking change.

Regarding PDR, the planners initially won exemptions for only a small area of central London described in the London Plan as Tech City and the Central Activity Zones; and this was due to their national economic relevance. However, following continued lobbying and resistance, central Government also agreed to allow councils to apply for Article 4 directions where demonstrable harm could be shown. Although these were not straightforward or easy to achieve, exceptionally, RBKC, through the production of a lengthy consultancy report, successfully argued that their cluster of creative industries that encompassed music, fashion and design incorporating both production and corporate headquarters was highly valued and worthy of full protection (RBKC_Planner_a). Camden was also relatively successful

with its submission, managing to argue, *"for a substantial amount of offices to be protected"* (Camden_Planner_a). The situation for Islington, one of the first councils to challenge the Government with an Article 4 direction, was less positive as they were forced to shrink their request to relatively small areas in the borough. This despite a clear and obvious loss of valuable employment land.

Yet, despite these wins, our interviewees expressed a general level of disillusionment that central government chose to pursue such a blunt policy instrument, with many councils commenting that without their hard-won exemptions their ability to balance the competing values of commercial and housing development for the good of the borough overall would be compromised. For example, RBKC commented that:

> *"If we did have permitted development rights and we weren't exempt, then we wouldn't be able to implement our core strategy - our local plan policy. So, it certainly would reduce our ability to properly plan in the borough"* (RBKC_Planner_a).

This worry, that the value of locally developed planning policies was being put in jeopardy – *despite clear evidence of harm* – was also evident in the discourse around STL policy changes. As discussed by all four boroughs, concerted efforts went into speaking to officers and ministers at the Department for Communities

and Local Government (DCLG) who were instrumental in pushing the Deregulation Act 2015 forward:

> *"And we went to talk to DCLG about this before they deregulated to try to explain just how bad this all might be, because the officers at the DCLG perhaps understand more than the ministers especially regarding any form of notification process [which would make enforcement easier]"* (Islington_Planner_a).

In addition, planners questioned exactly whom Government was aiming to support with this act. According to the interviewees' statements, far from enabling the simple homeowner to earn additional income the legislation would encourage the commodification and scaling up of STLs in the boroughs. Indeed, all boroughs interviewed reported that the homeowner who *"went on holiday for Wimbledon week"* and rented out their flat would have *"never come across our radar – we would not have been interested in it"* (RBKC_Planner_a; Westminster_Planner_a; Camden_Planner_b). Thus, far from slavishly applying the letter of the law, planners utilised their discretion and scarce resources to pursue cases where a contravention of enforceable values – such as a clear nuisance to residents or a clear commercialization of STL – would enable them to push back against the policy.

Again, we see an attempt to vary policy based on the boroughs' understandings of how best to serve the public interest with respect to STL, with planners, council-

lors and London MPs all making representations to Government ministers. They brought evidence and had reasoned arguments that balanced statutorily defined planning values with market values. Yet, ultimately, the Government's desire to increase market freedom meant that this reasoning was largely ignored in favour of deregulation. As this vignette from our Islington planner so eloquently explains:

> *"Well, we went to talk to DCLG twice about it, and Westminster was there and they were so angry. And the message that they conveyed was that the ministers want ordinary Londoners to share in the success of the city. And that makes sense. Why not? So, we were trying to explain that we don't have any problem with an ordinary person doing that, but actually it is the companies that get properties; and it's not just for a few weeks, it is most of the year. But they just wouldn't listen. They were basically saying, "we don't want any regulations, we don't want any notification process because that will be burdensome"* (Islington_Planner_a).

Importantly, we are not inferring that planners have any particular insight or proprietary ownership of what are or are not public values and the social good. However, the current policy laid down via the plan-led system and national regulation make planners responsible, in conjunction with residents and other stakeholders, for both creating and executing local plans, which will determine whether or not

planning permission for developments is granted. Local plans create a value-based framework for development inside the boundary of each council. They address issues like housing (in terms of affordability, number of units, density, accessibility and type of home); the economy (e.g. space provision and training provision); Open space (ensuring adequate provision of green space and play areas); heritage and urban design; and sustainability. Policies like PDR and the partial deregulation of STL therefore create internal tensions within the system by removing these decisions from local discretion and allowing only market values to arbitrate. The key here is that the deregulation removes locally agreed upon values (laid down in the local plan) in favour of more totalising market-based values and metrics.

Conclusions

As our empirical material has clearly highlighted, the boroughs have been left to resolve conflicting ideals: on one side, they are asked to create local plans that provide housing, employment and sustainable development for their area, whilst on the other, they have been asked to uphold the "rules of the game" (Friedman, 2009) to enable the market to flourish in its constant quest for value. And yet, on both sides of the insoluble equation that we have mapped out here, the planners and officers that constitute the 'practical regulators' of the system are being increasingly deprived of the planning tools necessary for achieving that. Thus, the

rationale behind the gradual dismantlement of the operative functions of the planning system not only reflects the increasingly market-oriented agenda that has characterised governments over the last 30 years but, also, a manifestation of conflicting values that has rendered planners, and to an extent local communities, at least partially impotent. Previously attacked rhetorically, finally hit materially, planning therefore faces a phase of reconstruction that undermines its *raison d'être*.

However, our research has gone beyond a mere description of the impacts of neoliberalization on the regulatory apparatus of the English planning system, being aware that taking that path would inevitably bring us to a hollow conclusion: neoliberalism is somehow all pervasive and normatively 'bad'. This would therefore prevent us from opening out our critique to take complex practices of value and values seriously.

Setting up feasible alternatives then implies the clarification of what we, as a society, would like to achieve through planning. And whilst Governments must always keep in mind such questions, our research demonstrates that, in this case, they have done so with a very short-term perspective that has supported the market, with little or no consideration of the wider social good. The relaxation of STL and the adoption of PDR find their rationale in the logic of economic growth, spurred

by the freedom of the market to exploit the policy-induced rent gaps between the conversions of permanent housing to vacation rentals and of office to residential.

But this does not have to be the sole outcome of such policies. Indeed, there is no reason why both planning and market values cannot be mutually constitutive and supportive (Holman and Ahlfeldt, 2015). For example, had the extension of Permitted Development Rights from office to residential been tied only to truly redundant office space and coupled with Section 106/CIL contributions and affordable housing targets, the policy could have supported the market by making conversion easier and less expensive. This would still have been consistent with local plan policy of ensuring that "a strong, responsive and competitive economy" was supported by retaining existing active office space whilst also ensuring that there was "supply of housing required to meet the needs of present and future generations" (NPPF 2012:2). Important here as well is the voice of resistance planners were able to give by exploiting the dissonance between the values embedded in the plan-led system and those more market oriented values seen in PDR. Instead of being fully silenced by a neo-liberally informed market hegemony, they were able, albeit in a very small way, to disrupt and vary the policy locally.

Likewise, there were a number of strategies that could have easily been adopted that would have supported the opening up of STL in London whilst still supporting

traditional renting in the capital. A simple register to mark the number of days a householder rented in calendar year could have been required. So too, London could have followed Paris and banned multi-listings where one 'host' lists multiple properties. Neither of these reforms should have damaged the normal homeowner so typified in the language of the legislation or the advertisements found on sites like Airbnb and would have protected local residents from the market exploitation of STL. However, in order for these suggestions to work there must be a belief in the "transformative potential of planning" without creating barriers that constrain planners from trying to "do better" (Campbell *et al,* 2014: 55).
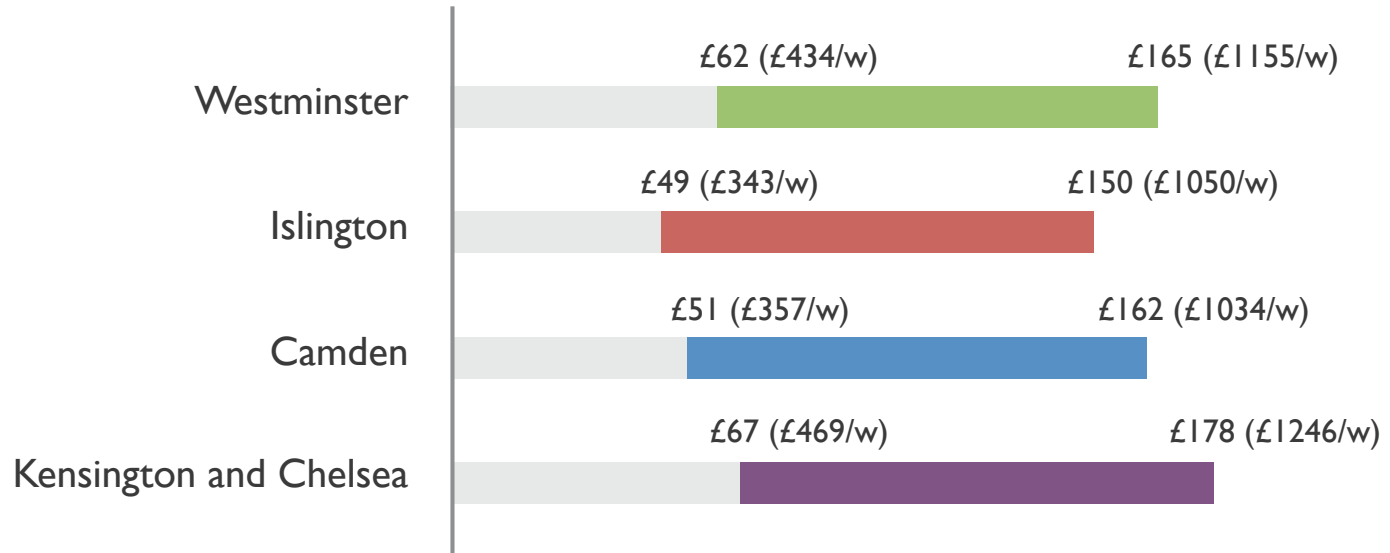
The suggestions listed above are just some and not necessarily the best or the sole alternative regulatory changes that a city like London might adopt in order to avoid a mere market oriented approach to these issues. Our research suggests that some form of relaxation of both PDR and STL are not necessarily intrinsically bad; although, a more watchful regulatory framework, more attentive to the evaluations of Local Authorities and to the experiences that other cities around the world have been undergoing, would have been extremely valuable. A phase of experimental-ism, attentively monitored, would allow the determination of the degree of regula-tion that best fits London, or at least some parts of the city at this particular histor-

ic moment. We share the opinion that a restrictive approach[7], especially if based on laws elaborated in a different economic contingency and in the pre-digital era, is necessarily going to be anachronistic and detrimental for both economic and social sustainability. On the other hand, regulation is inescapable: a mere laissez-faire approach has proved to be not only detrimental for society but often ruinous to the market itself. There is therefore the need to go beyond the dichotomy of a free market on one side and tighter regulations on the other by considering "planning regulation" a valuable tool able to protect the market by ensuring the so-called "common good" on which planning is based.
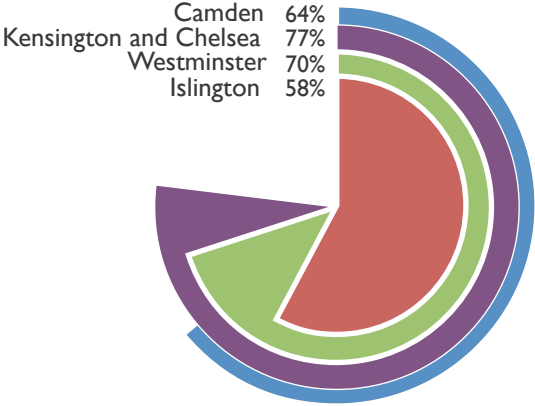
A wider and heterogeneous understanding of what we, as a society, value should be the preliminary exercise at the base of any planning process. Presently this is developed locally through a plan-led system, which has mechanisms for local accountability. It is, for sure, not perfect; however if the goal is to determine *what comes next* in a progressive planning system, we must understand how the material and social relations of value and values shape our understandings of policy and practice. Only in doing this can we imagine new ways to practice and value planning.

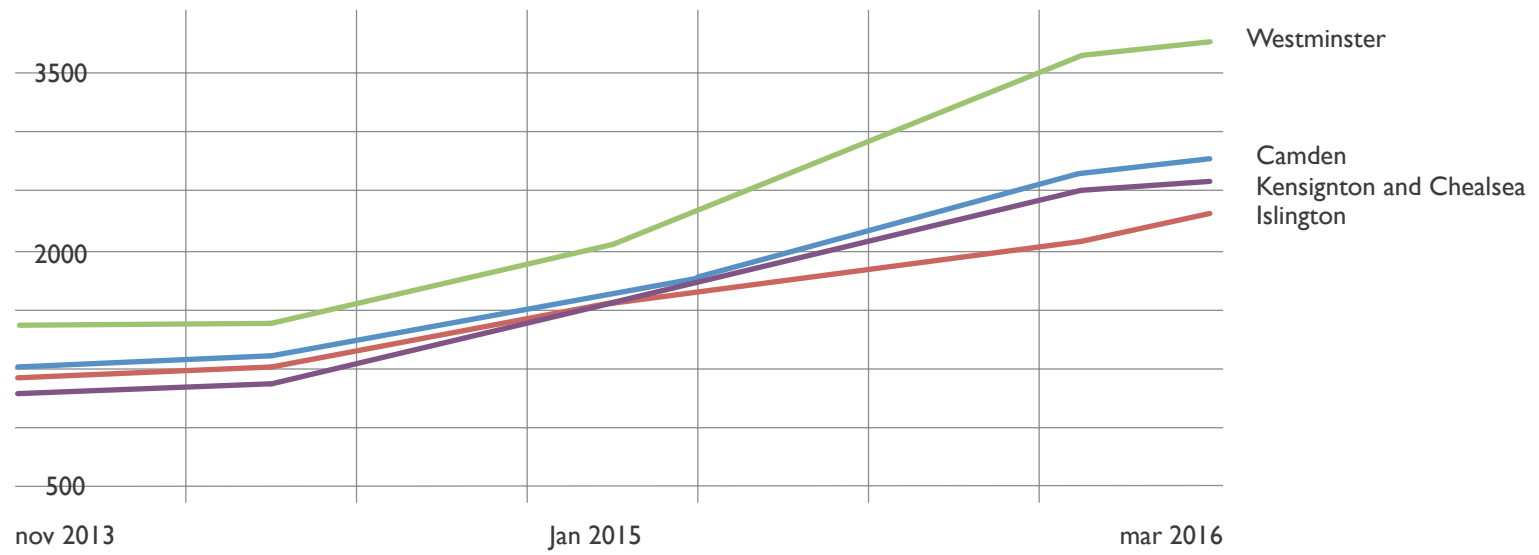[7] On STL see the case of Barcelona and Berlin.

Median price/day PRS vs STL

Westminster
£62 (£434/w) £165 (£1155/w)

Islington
£49 (£343/w) £150 (£1050/w)

Camden
£51 (£357/w) £162 (£1034/w)

Kensington and Chelsea
£67 (£469/w) £178 (£1246/w)

% entire home

Camden 64%
Kensington and Chelsea 77%
Westminster 70%
Islington 58%

Listings

3500

2000

500

nov 2013   Jan 2015   mar 2016

Westminster

Camden
Kensignton and Chealsea
Islington

Multilistings

1400

800

200

apr 2015   jul 2015   oct 2015   jan 2016

Westminster

Kensignton and Chelsea

Camden
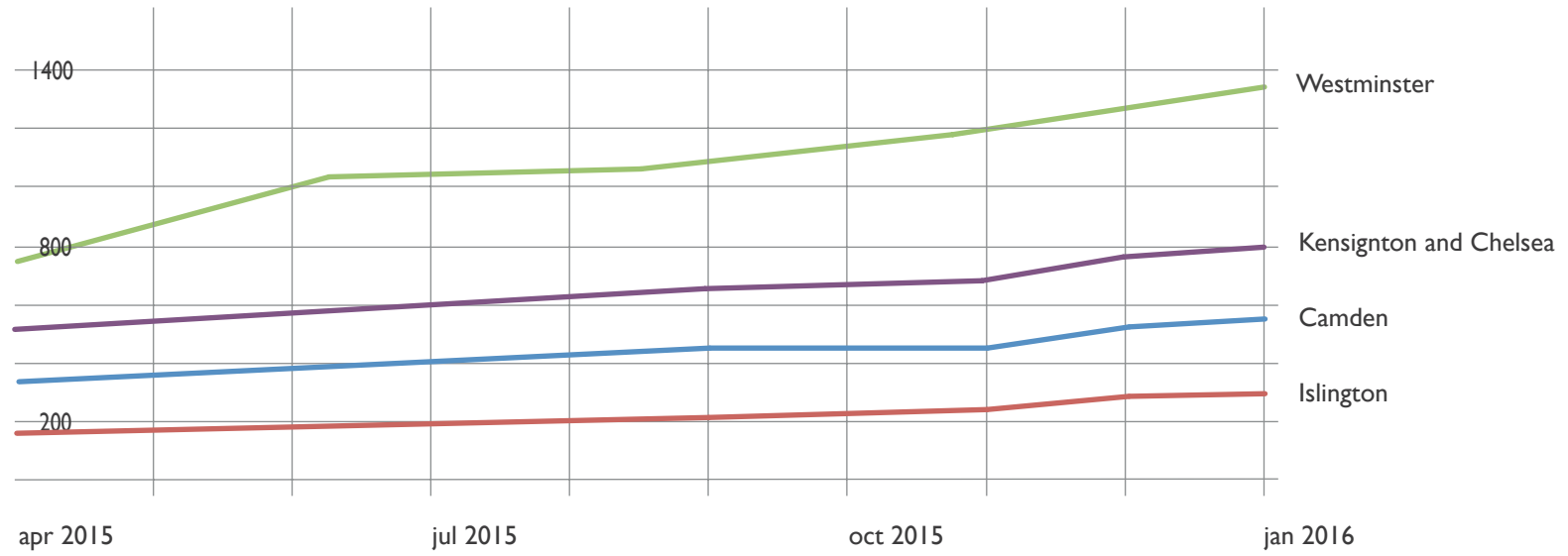
Islington

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