The spatial, material and temporal dimensions of planning regulations: a legal geography perspective

In: Planning Theory and Practice

Neil Harris, School of Geography and Planning, Cardiff University, United Kingdom,
HarrisNR@cardiff.ac.uk

Abstract

The field of legal geography provides useful concepts for analysing the spatial, material and temporal dimensions of planning law. This article explores the spatialities, materialities and temporalities embedded in planning regulations. It examines the 'things' written into planning regulations and the spatial – as well as social and temporal - relationships and arrangements established between these things. A framework is derived from legal geography to identify the objects, scales, units, boundaries, actors, and social and spatial relationships written into planning regulations. The article identifies a research agenda for further work in examining planning regulation through the lens of legal geography.

Key words

Legal geography, planning, regulations, permitted development, sites, boundaries

Introduction

This article engages with concepts in legal geography to understand the spatiality, materiality, and temporality of planning regulations. What are the 'things' that planning regulations represent and create, and what spatial – and social and temporal - relationships do they establish between things? The 'spatial planning' approach of the past two decades focusedprimarily on strategy-making and policy issues (Haughton et al., 2010). Regulatory, statutory and land-use aspects of planning – often contrasted with a spatial planning approach – were neglectedin this 'spatial turn'. Planning's reconnection with its spatial dimension did not, for example, lead to significant engagement with the emerging field of legal geography, with some exceptions (see Valverde, 2005, 2009, 2012). This missed opportunity to explore the spatiality of planning regulations is paralleled by another criticism - that planning theorists have neglected the 'things' that planning deals with (Beauregard, 2012, p. 182),

including ‘things’ written into planning law. The spatial and material are inevitably interrelated in planning (Lieto & Beauregard, 2016, p.2). This article draws principally on legal geography, defined as “a stream of scholarship that makes the interconnections between law and spatiality” (Braverman et al., 2014, 1), to examine planning regulations in formalised planning systems, while drawing on parallel approaches engaging with ‘planning matter’ (Beauregard, 2015; Rydin, 2020). The principal contribution of the article is to distil from legal geography a framework for the analysis of planning regulations, illustrate how this framework can be applied to planning instruments, and develop a research agenda for the analysis of the spatial and temporal dimensions of planning regulations across different contexts.

Section one introduces the field of legal geography and its potential for analysing statutory and regulatory aspects of planning. The second section outlines a framework derived from legal geography for reading planning regulations *spatially* (Layard, 2019) and introduces the specific planning regulations examined. The third section explores the spatialities, materialities and temporalities of planning regulations, introducing each section of the framework and examining the core concepts through a reading of planning regulations. The final section concludes that legal geography can provide insight into planning regulations and defines a research agenda for examining planning regulations through the lens of legal geography.

Legal geography and planning

> *Legal geographers note that nearly every aspect of law is located, takes place, is in motion, or has some spatial frame of reference. (Braverman et al., 2014, p. 1)*

Braverman et al. (2014, p. 7) identified a ‘spatial turn’ in legal thought in the early twenty-first century and the emergence of the field of legal geography. Defining legal geography as ‘a relatively new cross-discipline’, Layard (2019) highlights the ability of legal geography to “[bring] landscapes, places, non-human beings, objects, practices and concepts” (p. 232) into the analysis of legal practices. Legal geography responds to a critique that socio-legal studies neglected the spatial in privileging the social (Braverman et al., 2014, p. 4; see also Wideman & Lombardo, 2019, p. 3) and signifies overcoming of a ‘fear’ of space within law (Philippopoulos-Mihalopoulos, 2010, p. 188). Bartel et al. (2013), assert the role of legal geography as “questioning what the law is and what it does *spatially*” (p. 340, emphasis added). The spatial focus of legal geography is captured at its simplest as directing attention to the “where” of law (Delaney et al., 2001, p. xiii). This definition underplays the importance of the “reciprocal construction” of law and spatiality (Braverman et al., 2014, p. 1) – law is constitutive of

space, identities, social relations etc, while spaces, identities, and social relations also impact on the scope, configuration and content of the law (Delaney et al., 2001, p. xv). Specific conceptions of space therefore become "inscribed into law, and thus acquire particular social, political and economic relevance" (Benda-Beckmann & Benda-Beckmann, 2014, p. 32).

Legal geography: property, land-use and planning

Legal geography's focus on the 'where' of law offers potential for examining statutory and regulatory aspects of planning. Beauregard (2015) highlights "the inherently spatial nature of city and regional planning" (p.27) – and extensive elements of planning depend on law and regulations, especially in countries with formalised planning systems. This section examines key dimensions for exploring planning regulation through the lens of legal geography and builds upon "a nascent field of inquiry, reading across geography, planning, law, and socio-legal studies, among others, to examine how relationships between land-use planning, property, and the law shape urban space" (Wideman & Lombardo, 2019, p. 1).

Planning law – as with other categories of law - has a clear role in the *production* of space (Braverman et al., 2014, p. 3) both in abstract in the law and through enactment of law and shaping others' actions. The constitution of *space and places* by the law is a key strand of legal geography (Bennett & Layard, 2015a, p. 411). Planning and planners rarely engage in the construction of the physical world - but the physical world is 'shaped' by planners (Beauregard, 2015,p. 8). Regulatory tools form part of planners' capacity to shape the actions and behaviours of landowners, property developers, and communities. These regulatory tools enable "the deployment of law as physical force that operates on segments of the material world" (Delaney et al., 2001, p. xviii). Research then has a role in examining the "interaction between the world and the rules" (Layard, 2019, p. 234).

A characteristic of analysing planning and built environment regulation through the lens of legal geography is the predominantly urban context – a taken-for-granted context for planning, but often less explicit for legal geography. Valverde (2012, p. 7) argues that limited attention has been given to the regulatory mechanisms that shape life in cities. This is despite the fact that "so much of urban life is defined and proscribed by law" (Clark, 2001, p. x). Bennett and Layard (2015b) similarly emphasise the analysis of legal regulation in urban contexts, citing the dynamic nature of urban areas and that "whilst systems of order and arrangement are present, they are constantly struggling to keep pace with the multiplicity of the urban realm,…its busy flows of matter and the flux of its built form" (p. 1).

Materiality and the embodiment of law within things (Bennett & Layard, 2015a, p, 416) feature strongly in legal geography, and also in planning as an activity dealing with land, buildings, development, and land uses. Planning is intrinsically bound up with these concepts. There is the significance of the creation of 'sites' through the 'braiding' of the social, the spatial and the legal (Bennett & Layard, 2015a, p. 409). The creation of sites is closely linked to the particular conceptions of property embedded in law with rights and obligations that are "attached to the land" (Delaney, 2001, p. 493). Some studies in legal geography focus on public and quasi-public spaces in cities (Mitchell, 2003, Layard, 2016). Private property too can be understood as a splicing together of spatial and legal meanings (Layard, 2015). This paper focuses principally on public regulation of private property and spaces - spaces such as the home, and commercial property. Planning exhibits close engagement with traditional conceptions of ownership of property of the type identified by Blomley (2013, p26), focused on private and exclusive ownership and an entitlement to do with property as one wishes, subject to state regulation enabling others similarly enjoying their property. Planning therefore plays a critical role in balancing private and public interests in land (Platt, 2014, p. 53; see also Cooper, 2003).

Finally, significant components of law – including planning law - are *procedural* (Platt, 2014, p. 42), and here there is also scope to examine 'the spatiality of legal processes' (Benson, 2014, p. 216). The idea of legal processes exhibiting degrees of spatiality applies well to planning – for example, procedures setting out an appeal hearing *forum*, consultation with *neighbouring* occupiers, or conducting of a *site visit*. The next section explains thekey ideas and concepts that will be used to read planning regulations through the lens of legal geography.

Reading planning regulations *spatially*

Legal geography is characterised by diverse and hybrid methodological approaches (Braverman, 2014; Layard, 2019) and a field where the "adversarial and pragmatic perspective of law contrasts with the interpretive orientation of geography" (Platt, 2014, p. 53). The methodological tools used across legal geography include analysis of legal cases, interpretivist readings of the law, situated accounts of everyday enactments of boundaries and spaces, and exploration of 'spatial imaginaries'. The methodological approach I adopt here is to read an everyday regulatory planning instrument through the lens of legal geography with a focus on identifying 'space-talk' (Bennett & Layard, 2015a, p. 413) and 'spatial frames of reference' (Braverman et al., 2014, p. 1). Benson (2014, p. 217), citing Delaney (2010), captures the essential task of legal geography - to *situate the legal* in spatial contexts, and

locate the spatial within legal rules, frameworks and decisions. The emphasis in this article is on the latter and involves:

> "becoming 'spatial detectives'…learning…to search out the presence and absence of spatialities in legal practice" (Bennett & Layard, 2015a, 406).

Bennett and Layard (2015, p. 410) reflect on methodologies associated with being 'spatial detectives'. They identify that studies in the field of legal geography tend to work 'from the site up'. Scholars have used street corners, court rooms, informal settlements and other sites as the starting point for their analyses. This article starts instead with the law and how it then imagines and *works towards* specific sites, and focuses on how planning law envisages multiple contexts.

This reading of planning regulations is informed by a framework inspired by legal geography. The following extract captures core ideas in legal geography from which the framework is derived:

> Legal geography is distinctive in bringing a specific attention to *space and spatiality*, to the *interrelationships between people and environments*, analysing how these operate across and between *humans, places and non-humans*, as well as core geographical concepts of *place, networks, mobility, scale, relationality, distance and temporality*. (Layard, 2019, p. 235, emphases added)

I use a framework for analysing planning regulations that distils eight components from this and other definitions of legal geography (see Table 1). The components extend from traditional elements of legal geography – articulation of scale and delineation of boundaries – to construction of actors and identities. The components are explained below. The framework and analysis exhibit a similar style to Beauregard's new materialist approach to devising an 'ontography' (Beauregard, 2015, pp. 14-15; see also Valverde, 2005) – essentially, the listing and interpretation of human and non-human matter that can "challenge planners—both practitioners and theorists—to think differently about how they engage the world" (Beauregard, 2015, p. 15).

Insert Table 1 here

The Planning System in England and the General Permitted Development Order

Valverde (2005, 48) makes a powerful case for focusing on 'everyday processes of governance'. She directs researchers to engage with the 'mind-numbing details' of Acts (Valverde, 2012, p. 4) and conduct analyses of "the mundane details of how cities regulate space" (Valverde, 2012, p. 2). This article explores the spatial, material and temporal dimensions to planning law in England, within the

United Kingdom, by examining one of the principal regulatory 'tools' of the English planning system. The statutory planning system in England is formalised, well-established and based on the control of 'development' – defined to include physical operations (such as constructing a building) as well as some changes of use of buildings and land (see Sheppard et al., 2017 for an introduction). The carrying out of 'development' usually requires permission from government and decisions to grant planning permission are guided by a substantial framework of plans and policies. The system is based on Acts of Parliament, fleshed out by substantial secondary legislation, and is established by central government but largely administered by local planning authorities.

The document I analyse here is the General Permitted Development Order[1]. The Order is an established component of the planning system in England and fits Valverde's (2012) description of 'mundane', regulatory detail. The essential function of the Order is to define for England forms of development – described as 'permitted development' - which central government does not require the developer to apply specifically for planning permission. This highlights the Order's role in affording 'property rights' (see Delaney, 2001, p. 495, and Blomley, 2017). The Order is one of the most significant instruments in operationalising the planning system – or what Grant (1996) describes as the 'fine-tuning' of planning controls. Planners working locally use the Order frequently to advise anyone wanting to carry out development if they have permitted development rights or need to apply for planning permission.

The Order has been subject to legal commentary and academic research. Practical commentaries on the Order help practitioners navigate the complexities of the legislation, focusing on legal and operational interpretation of the regulations (Grant, 1996; Goodall, 2016, 2017). The Order has also been the subject of academic research on the controversial exemption of larger-scale development from detailed planning control, including conversion of offices to residential use (Ferm et al., 2021) – reflecting use of the Order as a liberalising measure (Grant, 1996, p. 33). The analysis in this paper is distinguished from other studies by a more conceptual and reflective focus on how the Order – and its 'building blocks' – makes space capable of land use regulation. The analytical reading of the Order is informed by the framework set out in Table 1. The analysis comprised detailed reading of the entirety of the Order – almost 170 pages of legislative text – noting in a table every reference to each the components – for example, each reference to an object, time, spatial relations, actors, an activity, etc. This approach echoes other deconstructive readings of legislative texts (see Grabham, 2016, p.

[1] The text of the General Permitted Development Order 2015 can be accessed electronically at https://www.legislation.gov.uk/uksi/2015/596/contents/made

14). The analysis then proceeded to explore patterns, commonalities, and qualities within these components.

The Order has several important characteristics. The Order is a detailed and lengthy document, dense with technical and regulatory text (Grant, 1996; Sheppard et al., 2017, p. 102; Goodall, 2016, p. xxxvii). The Order is not visual in the sense Valverde (2005, p. 36) identifies as common to planning, and does not include photographs, drawings, maps or illustrations. The Order defines physical and spatial features and relationships through detailed text rather than by visual illustrations. The use of words over visual representations probably lies in the desire for precision about meanings. It may also reflect another characteristic of the Order – it is designed in a way that anticipates a very wide range of contexts in which it is applied. Writing the Order involves a spatial imagining of the physical spaces it will be applied to, anticipating space, form and layout in various permutations and possibilities.

The spatial, material and temporal dimensions of planning regulations

Scale, areas and units

This section explores 'scale' and how it is articulated in the Order. Scale is often linked to expressions of jurisdiction, defining the spatial extent of governance and control (Valverde, 2009). Some argue the concept of space as jurisdiction is narrow and legalistic, and privileges the idea of scale as fixed and static rather than fluid and emergent (Philippopoulos-Mihalopoulos, 2010, p. 190). Others interpret scale as a concept derived from a metaphor of map and its subsequent application to analysis of the law (de Sousa Santos, 1987). To interpret the law as a 'mapping exercise' (Valverde, 2009, p. 141) is to compare the relationship between law and social reality to the relationship between maps and spatial reality – the law is a simplification and distortion of reality (de Sousa Santos, 1987, p. 282). Scale in this sense involves the decision on what degree of detail to provide in the law and, for example, what extent of detail or abstraction to use in representing society and space. Law can then be interpreted as a way of 'mapping' social spaces (de Sousa Santos, 1987, p. 283). Later sections of this paper all point to the inherent selectivity and abstraction involved in writing the law, including the identities it affords individuals or actors within society. Scale also has a more prosaic meaning when used to interpret planning law – what territorial scales are reflected in the law? Legal systems are also typically multi-scalar (Bartel et al., 2013, 344).

The Order reflects a hierarchy of multiple scales, starting with 'the nation', passing through specific political territories of the United Kingdom and then England, and then to references to 'local' and 'the locality'. The Order then focuses on the concept of 'site', but also privileges other 'scales', including

the household and the dwellinghouse. More planning-specific scales also feature, such as the scale of the curtilage of a property – a functional area associated with a home or business, which is not always demarked, and a concept subject to significant legal interpretation (Goodall, 2017, p. 21). The notable aspect of the territorial scales used in the Order is the rapid shift from high-level scale concepts such as 'the nation' to smaller-scale concepts such as 'the site' and down to the 'household'. This articulation of scale from nation to household highlights the multi-scalar dimension of planning, but also the capacity of planning to regulate down to particular small-scale units of social organisation. The concept of scale links closely to the theme of areas and units used in the Order. Several studies identify the importance of areas, spaces and units in the law generally, and particularly in planning law. Valverde (2012, p. 35) noted the role the law plays in 'marking off' distinct spaces and areas, while Bennett and Layard (2015a, p. 412) explored various spatial units evident in law. Other studies exploring planning through a legal geography framework have noted the "bewildering array of quantifiable planning principles" used in land-use regulation (Prior et al., 2013, 359).

Some areas and units used in the Order are specific, including Greater London, the Palace of Westminster, the Duchy of Cornwall, while others are categorical such as World Heritage Site, National Park, The Crown Estate, and Areas of Outstanding Natural Beauty. These primarily reflect designations of protected areas, and areas with other important planning characteristics, to which differing degrees of planning control and restriction are attached. In this sense, these are an important part of 'marking off' space and supporting the activity of differentiated planning control. Sites of various qualities and characteristics are included – heritage, conservation, archaeological, and scientific importance. Some spaces and areas are defined in highly legalistic ways – the key example being 'Article 2(3) land', a list of other defined categories – while some are highly abstracted, such as 'countryside'. This 'marking off' is a critical tool in devising an instrument that works spatially, applying different regulations in some places and not others, and categorising spaces so that regulations can be attached to and differentiated between them.

Fixities and flows

Beauregard (2012, 2015) calls for increased attention to the materiality of planning to counterbalance the human-centred focus of planning theory. This section firstly explores the physical objects enacted in the Order – the 'things' named to operationalise regulation. Layard (2016) has identified the tendency within the law to "prioritise fixity over relationality" (p. 39) and the objects identified in the Order play a fundamental role in stabilising and enabling control. Documenting the objects or 'things' in planning regulations has similarities with documenting objects in new materialist and actor network

approaches in urban planning (Lieto, 2017, p. 568; Rydin 2020). Some of the most extensive detail and definition in the Order is focused on defining material objects – and one of the functions of the Order is therefore to define the things to be regulated. The Order includes close to two hundred references to different objects. This definition of objects – the 'things' that planning either creates or identifies – is clearly a key function of planning regulations. These objects can be classified into three broad categories with degrees of overlap. The first is physical objects. Key examples include roads, buildings, ship, pipeline, chimney, wall or elevation, bridge, roof, mast, and so on. The second category is objects identified as things with a defined social purpose. Examples include amusement arcades, schools, and dwellinghouses – some included for virtuous purposes as social infrastructure, some as potentially problematic uses subject to control, and others as selective and normative enactments of dominant social or living arrangements (see Grabham, 2016). This second category is of particular interest in highlighting the considerable selectivity and morality of planning in defining 'bad neighbour' developments or activities that are not always welcomed in communities. The third category refers to objects or things with less fixity and tangibility. The Order refers to a small number of less tangible objects, including film and video, and occasional reference to sound. The planning system and its present instruments may therefore find difficulty in capturing more fluid elements that are gaining recognition as significant in our understanding and experience of places.

Layard (2016, p. 38) notes an increased attention to relational concepts of space and time, including in the legal geographies literature, and particularly in relation to property law. There has previously been exploration of relational concepts within planning, emphasising fluidity and flows rather than fixity (Graham & Healey, 1999). To what extent does the Order refer to such issues? References in the Order to flows relates principally to matters such as water and energy. There are additional references to transport and mobility, distribution of goods, and the movement of air traffic. More specific references include concepts of porosity and permeability – in relation to water flows. So, while there are limited references to flows, there is a very clear dominance of fixed, physical and material objects in the Order. Pearson (2008) argued that spaces in law are complex and fluid, rather than ordered. There is some truth in the complexity of spaces, based on this analysis, although there is an undeniable sense in which the Order focuses intently on the physical ordering of spaces.

Boundaries

Legal geography has inevitably focused on the meaning of boundaries (Delaney et al., 2001, p. xviii). Boundary is one of the principal elements that Philippopoulos-Mihalopoulos (2010, p. 189) cites as leading to enrichment of law. 'Boundaries' perform a particularly significant role in property law

(Layard, 2016, p. 39). Property boundaries are essential to demarcation of title and assignment of land and property rights (Blomley, 2016), and often attempt to establish – not always successfully - a 'sharp divide' between parcels of land (Blomley, 2013, p. 23). The Order's most prominent use of the concept of boundary is to demark a point, the distance from which is significant in permitting or prohibiting certain activities or scales of development. The boundary is therefore an important marker – a 'pinning down' of a fixed point - from which distances are then measured. This is best illustrated in a residential and householder context – extensions to residential properties would be constrained if closer to the boundary than an existing part of the property, or permissible building heights would be restricted within a specific distance of a boundary with another property. The concept of boundary is therefore significant in 'marking off' space – although not necessarily with the function of exclusion (Blomley, 2016) - but then enabling other elements of regulation and control. The Order includes 'harder' features linked to the concept of boundary, including gates, fences, walls, and any 'other means of enclosure'. The Order also incorporates a more flexible and less well-defined concept of 'curtilage' in a residential context – a residential curtilage being an area with some functional relationship to day-to-day activities of a dwellinghouse, but not necessarily physically defined (see above). Planning regulations exhibit a tendency to focus on 'hard' demarcation of boundaries for orientation and placement, but then include 'softer' forms of demarcation that involve interpretation in context.

Spatial relations

Boundaries delimit units of land and create an important feature that underpins many spatial relations enshrined in planning law. The preceding section noted one of the more obvious spatial relations used in planning law – the distance between elements. Prior et al.'s (2013, 359) study of the regulation of sex premises identified the tendency of planning instruments to be expressed in 'blunt' forms, including quantification of minimum distances between uses. These distances are sometimes claimed to be without justification, or the rationale for them forgotten over time (Valverde, 2012, p. 114). The Order includes many detailed regulations of this kind – proximity to boundaries, height of buildings and enclosures, the volume of structures, and so on. The Order includes many other elements that indicate the spatial relations used in the regulation of land use and development, elements that place things in position to one another, and that assemble elements into something larger. A prominent spatial relation in the Order is being adjacent to or adjoining – the positioning of objects and features immediately next to each other – which in turn can reinforce the idea of a confined and primarily localised relevance of planning and development impacts. Other references position objects in

relation to land – underground, situated on land, above land, stationed on land. Some references point to whether items are attached to each other, separate, or self-contained. There is use of some very basic principles, such as exterior and interior, external and internal. Some limited notions of being visible are used, as is the idea of obstructions to views from a position. These elements all perform important work of orientation and positioning, helping to build the components and objects into something that can be 'placed' and controlled.

Activities

Valverde (2005, 43) highlights the reification of 'use' - as a legal category - as a defining characteristic of planning. She argues that reification of 'use' leads to a 'distinctive ontology of governance' in acting on uses, rather than persons or property (Valverde, 2005, 42). The capacity of planning to control uses by collapsing a diverse set of activities into manageable categories – as in use classes or land uses – is a key part of managing complexity. Planning simplifies as a way of managing activity and people. This section explores the *activities* referenced in the Order and carried out by the actors written into the Order.

The first category of activities expressed in the Order are those characterised as in some way 'physical', in the sense of effecting material change to land and buildings. These include demolition, mining, excavation, and construction through to drilling, stripping of soil, and breaking open land. The second category can be captured as activities in the more commonplace sense – activities undertaken on a regular basis. Examples include manufacturing, storage, cleaning, packing, trade, retail and business. The Order also includes some very specific references to activities that reflect a desire to control those activities, such as racing, clay pigeon shooting, and war games. Some 'softer' and everyday activities feature too, with many closely related to use of the home, such as dwelling, habitation, recreation, and the keeping of pets and animals – and it is here that law, materialities and temporalities are interrelated (Grabham, 2016, p. 21). The dwellinghouse or home as a specific focus for planning regulation is of interest. It is in the definition of actors and activities that the Order performs some of its most significant work in defining legitimate uses of land, identifying morally or practically problematic uses, and expressing normative principles of everyday life. Cooper (2003) and Valverde (2011) have previously noted the capacity for legislation to 'codify' and encapsulate certain forms of 'nuisance' through land use and property law – and the Order can be read as a codification of various land use and development impacts on adjoining and nearby users.

Actors and identities

This section focuses on the critical question of '*Who* is written into – and is present in – planning law?' Planning regulation plays a role in categorising actors within planning activities (Rydin, 2020, p. 224). Beauregard (2015, p. 58) argues that planning theory tends to privilege human actors in accounts of planning. Yet, existing literature in legal geography leads us to anticipate that planning law will feature few instances of people and persons. Valverde (2005, p. 36) identifies that planners tend to privilege space and matter over people in planning regulation (see also Blomley, 2017). She argues that planning governs people *through* abstract concepts, governing uses and activities, rather than directly through people. Her account of the concept of 'amenity' illustrates this point:

> Not surprisingly, given the complexity of the assemblage of purpose and rationalities that lurks under this word, 'amenity' allowed and continues to allow municipalities to govern people - and relations of class, ethnicity and respectability – without governing *through* persons. (Valverde, 2005, p. 45).

There are implications of this indirect governance of people through land use. Prior et al. (2013) argue governance through land use distances planning from social and moral concerns – they make the point that "land uses are, presumably, incapable of being offended" (p. 358).

State governance through land use and in a modern, less embodied form is characteristic of 'seeing like a city' (Valverde, 2011). A legal geography perspective nevertheless can still focus on 'the types of legal person' enacted in law and regulation (Grabham, 2016, p. 14). The Order identifies a series of institutions and organisations, including those typical of any primary or secondary legislation. So, for example, institutions of government are named, such as Parliament, the Secretary of State, the Minister, as well as local planning authorities. This is expected in setting up the arrangements for the delivery of planning. The constitutional arrangements of the United Kingdom also find expression in the Order, with abstract reference to 'The Crown' as well as 'Her Majesty'. This is an exclusive reference to a position held by a specific individual. The wider range of actors and identities is of greater insight. Identities become of increasing abstraction. The Order refers to 'the public', at times to 'members of the public', and occasionally refers to specific matters such as 'at the public expense'. The phrase 'members of the public' is sometimes displaced simply by reference to 'a person'. These persons are sometimes linked to activities, as in the phrase 'a person carrying on business as'. These businesses are not often linked to specific occupations, although occasional references are made to 'farmworker'. The generic term 'employee' is used more readily to capture any person working for some organisation or company.

One of the more significant distinctions the Order makes is between owner and occupier – a relationship paralleling another in the Order, the distinction between landlord and tenant, used in an agricultural rather than wider property context. These terms capture social relationships between individuals, a distinction between those who own property and those that do not. The distinction between owners and occupiers is important in being able to assign differing rights and responsibilities to individuals that are mediated through property (Wideman & Lombardo, 2019, p. 4; Keenan, 2021). The emphasis on relations as mediated through property inhibits the articulation of other forms of social relations. Some identities are also notable for their absence from the Order. There is, for example, no construction of the identity of a neighbour – the closest the Order comes to this is referring to an 'adjoining occupier or owner'. This infers a relationship of adjacency or propinquity yet nothing more. There is scarce inference of community in the Order (see also Frug, 1996) – there is no real sense of 'community' in the Order, although the existence of 'community assets' is recognised. The more abstract term 'human' is used very rarely in the Order, referenced only in relation to the act of 'human habitation'. Animals are rarely present in the Order, and referred to simply as 'livestock' – with additional and very specific references to fish and shellfish - reflecting a conception of animals primarily as food and also echoing the origins of the Order in the aftermath of the Second World War and an era of concern for agricultural productivity.

Analysis of the Order reinforces Valverde's (2005) observation that planning tends to govern through concepts and uses rather than directly on persons. The Order sustains a level of abstraction but does reflect and create collective and individualised roles and identities that are necessary for land use regulation. These are selective – the Order writes 'the public', owners, and occupiers into planning law, yet neglects or scarcely references other identities and constructs, such as the neighbour or community. Keenan (2021, p, 226) reminds uso that who is written into the law conveys a sense of 'belonging' – with the Order emphasising owners and occupiers of land over many other potential identities. This can make it difficult for actors who do not own or legally occupy land or property to find a legitimate place within planning regulation.

Social relations

The preceding section on who is written into planning law emphasised a tendency to selectively define abstracted identities linked to property and land, such as owners and occupiers or 'persons' carrying on activities (see also Blomley, 2013, p. 24). These abstracted identities inhibit the presence of specific forms of *social relations* within planning law. Nevertheless, various contributors to legal geography encourage exploration of how social relations and moral judgments become 'enshrined in law'

(Valverde, 2012, p. 114). Some studies highlight planners acting as 'moral agents' in regulating sex spaces, for example, even if those planners are not explicit in their consideration of moral issues (Prior et al., 2013). This involves the 'translation' of matters of "offense into existing planning concerns with both distance and visibility" (Prior et al., 2013, 359). Planning regulations for the everyday and mundane may therefore still exhibit a 'moral geography'.

Regulatory instruments like the Order are seemingly 'technical' yet they enshrine important "cultural values [that] are literally built into the urban fabric" (Valverde, 2012, p. 21). There is work to do in examining these cultural values as part of a more critical assessment of planning regulations. Valverde (2012, p. 56, citing Perin, 1977) has, for example, emphasised the cultural biases of the single-family detached home in zoning regulations in the United States. Valverde (2014, p. 70) also identifies the home-owning nuclear family as a chronotope[2] prevalent in local urban law and "the privileging of a particular form of domestic life" (Valverde, 2014, p. 70). Similar themes are evident in the Order with emphasis on the concept of 'dwellinghouse', reference to 'domestic' spaces and activities, and 'people living together as a family'. Reference to 'dwellinghouse' is accompanied in parts of the Order by a 'purpose incidental to the enjoyment of a dwellinghouse as such'. This calls on planners and others to examine the kinds of activities that people 'normally' engage in at home (see Duxbury, 2018, p. 132). I highlighted earlier that the Order does not directly refer to neighbours – instead using the phrase 'owners or occupiers of adjoining land' as a way of expressing a relationship 'mediated through property' (Valverde, 2012, p. 31). One specific social relationship referred to in the Order is care and caring, and care specifically that is required 'by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder'. References elsewhere in the Order to specific uses echo this concern for moral considerations, including betting offices and pay day loan shops. These examples illustrate how the Order attempts to render particular kinds of social relations and moral judgments – on care requirements arising from substance misuse, gambling, borrowing money – into regulatory 'land use planning issues'.

Time and temporality

My analysis started with examining the *objects and spatial relations* written into planning regulation as space is the primary 'organising principle' in legal geography (Braverman et al., 2014, p. 2). The field

[2] Valverde (2014) draws on the notion of 'chronotope' as a way of recognising the interconnectedness of spatial and temporal considerations in socio-legal analysis. The other example she uses to illustrate the notion of chronotype is the legal courtroom – attending to the courtroom's spatial elements interconnected with its temporal elements (p. 69). In essence, the notion of chronotope enables equal, simultaneous and synthesised consideration of time and space in analyses of socio-legal elements and phenomena.

has started to explore other organising principles, including redress of "the analytic marginalization of temporality" in legal geography (Valverde, 2014, p. 53). Academics have since attended more fully to the temporality of legal spaces (Braverman et al., 2014, p. 14), including in land and property (Layard, 2016). Property – and land – are often "temporalized for legal purposes" (Valverde, 2014, p. 63) and we should expect temporal considerations to be present in planning law. However, previous analyses have identified temporal dimensions as obscured or even invisible in planning law, and that where they do occur they often reflect a 'static and localized spatio-temporality' (Valverde, 2014, p. 71). The planning discipline has attended to time as an important dimension of planning activity (Abram, 2014; Laurian & Inch, 2018). Time has an important 'stabilising' quality in planning (Beauregard, 2015, p. 159) and so can potentially play a significant part in making land use and development capable of regulation. This section therefore explores the temporal dimensions of planning law, and the extent to which planning law manages activities, objects and users in time.

The General Permitted Development Order emphasises three temporal dimensions – 'original', 'existing', and 'proposed'. Valverde (2009, p. 147) identified the past and future as two distinct temporalities in urban planning law, although analysis of the Order identifies 'existing' as an intriguing temporal category. Original is a reference to the past, usually referred to in the sense of an original building, or a building as originally constructed. This term 'original' will in any context locate something to a specific moment in time. Planning law in England refines the idea of an original building to the building as permitted or first constructed. Buildings that pre-date the introduction of universal planning controls in England are 'fixed' to a specific date – as the building stood on 1st July 1948. This precise reference is illustrates the demand for clarity and precision on when a legal instrument is effective from. The term 'existing' is usually a reference to something as it is *right now* – in the sense of an always moving and progressing point in time. This is an important reference point for the third temporal stage, that which is 'proposed'. The term 'proposed' captures ideas in the present for development at some stage or point in the future, an imagined form of development that has yet to be brought into existence and may never come into existence. This reflection on time in planning regulation underlines the fact that "planning is such a richly temporal activity, fundamentally concerned with change, timing, and the possibilities of controlling space through time" (Laurian & Inch, 2018, p. 281).

In addition to three principal temporal dimensions, the Order makes other references to time and temporalisation. It refers to uses and activities being temporary or flexible, implying a shifting between uses over time (see Windemer, 2019). The Order plays too with the idea of things being '*sufficiently permanent*' – not permanent, but sufficiently so that it is for planning intents and purposes permanent. The idea of 'sufficient' permanence is illustrative of the challenge of being precise about

the definition and management of time in planning, as well as the role of planning regulation in fostering stability. Additional temporal references in the Order include 'in an emergency' – a moment and situation when certain actions would be permitted that would not in less urgent situations – and 'as soon as reasonably practical', which leaves significant scope for discretion about what constitutes such a timeframe. This open-ended and discretionary temporal reference contrasts with other elements of the GPDO, where the timeframe for activity is clearly specific in terms of number of days. Reference is also made to '*immediately* before coming into force' – again playing with a flexible temporal element of a point in time when something comes into force.

The Order includes interesting conceptualisations of time with several references to the 'end' of uses or completion of activities. The phrase 'ceases to have effect' limits an activity or situation to a point in time, after which some state, condition, or activity ceases to be lawful or apply. The term 'discontinuation' similarly identifies the stopping or cessation of something. The terms 'reversion' and 'reinstatement' refer to activities bringing about some *earlier* condition or state, either through going back to that condition or state, or some activity being undertaken to put back in place what was there before. These and other temporal references challenge Valverde's (2014, p. 71) analysis that temporal references in urban planning law are largely absent or hidden. They challenge the idea that temporal references are principally static. In addition, the very objects, actors and activities that the Order writes – buildings, boundaries, uses, construction, dwellinghouses – exhibit 'temporalizing effects' (Grabham, 2016, p. 30) often with a tendency to capture both stability and durability as well as management of change.

Conclusions and future research

I set out to examine how legal geography could help to better understand the spatiality, materiality, and temporality of planning law by asking 'what are the 'things' that planning law both represents and creates, and what spatial – as well as social and temporal - relationships and arrangements does it establish between these things?'. An effective and reflective planning practice demands periodic attention to these essential building blocks. It is curious that planning scholarship has not engaged more substantially with ideas and concepts in legal geography – and with socio-legal studies – given the often statutory and regulatory basis of planning in many countries and the evident spatial and social dimensions of planning. Scholars in the field of legal geography have engaged with land use and property regulation, most notably through the work by Valverde (2005, 2012), yet with limited reciprocity from the wider planning community. The principal contribution of this article has been to distil from legal geography a framework for the analysis of planning regulations, and illustrate how

this framework can be applied to planning instruments as a way of better understanding our practices. I conclude in this section with why attention to legal geography within the planning discipline matters. I finally identify priority themes for research that articulates the value of legal geography, especially in developing our analyses of statutory planning practices in different contexts.

Planning systems and practices have been examined periodically by legal geographers - and the planning system in England continues to be identified as an important focus for legal scholars (Lee and Abbot, 2022). What can the academic and practice planning communities gain from bringing a legal geography perspective to their analyses? Legal geography can provide a platform for engaging inricher, more intellectually-driven and reflective analyses of statutory planning activity. Planning research can all too easily focus on the practical and operational aspects of regulation – a focus on the operationalisation of the latest changes to permitted development, for example – with limited reflection on the essential 'building blocks' that facilitate the regulation of land-use and development in the first instance. What is it that makes regulation of land use and development *possible* in different contexts? Concepts in legal geography can help to understand the complexity of making land and development capable of control – establishing scale parameters, defining objects, setting out spatial relationships, marking off spaces, categorising uses, envisaging activities and actors, establishing temporal reference points, and so on. Explorations in legal geography can support analysis of the *contingencies* that become enshrined in law and regulation – why *these* scales, objects, identities, relationships, and temporalities over others, and how do they reflect the specific context in which they emerge? Do our planning instruments evolve to reflect a changing society and emergent challenges, or are our conceptual and regulatory tools increasingly fixed? One of the more productive areas where a legal geography perspective may support the evolution of planning regulations is in thinking about which actors and identities are absent in planning regulations and what this means for an inclusive planning framework.

There is a potentially rich and expansive research agenda in analysing planning regulations through the lens of legal geography as part of "a renewed attention to land use as a socio-legal phenomenon" (Wideman & Lombardo, 2019, p. 9). I identify five key themes for research into planning regulation through the lens of legal geography. First, there is a need for *abstract theorisation* of the spatial, material and temporal dimensions present in planning regulations. This echoes calls beyond planning for both abstraction and concrete accounts of law and space to avoid "the fetishization of legal materiality" (Philippopoulos-Mihalopoulos, 2010, p. 194). Beauregard (2012, p. 186) rightly argues that "a theory of planning practice has to *theorize* the objects that populate it and the places in which it occurs" (emphasis added). Valverde (2005) identified the value of "paying serious attention to taken-for-granted terms ('amenity', 'use', etc) and noting how they are deployed in everyday legal

governance" (p. 55). Sections of this paper highlight many 'taken-for-granted' planning terms and concepts – dwellinghouse, flexible, landowner, use, household, temporary, etc – that can be explored both abstractly and practically. Second, there is scope for *historic analyses* of planning regulations that trace, unpack, and explore the evolution of regulations over time. Analysis of the Order makes evident that some concepts and ideas embedded in regulations reflect formative 'moments in time'. A key characteristic of the law is its durability and its capacity to persist long after the demise of the circumstances that gave rise to it (Platt, 2014, p. 7). There is therefore a "need to work backwards in time in order to make sense of currently persisting spatio-legal regime, because of this 'dead-hand' effect that law can have in space across time" (Bennett & Layard, 2015a, p. 416). Third, there is potential for research on the *presence and exercise of power* through planning regulations. Blomley (2014, p. 78, citing Sack, 1986) notes the importance of territorialisation as a means of communicating power relations, and planning regulations such as the General Permitted Development Order engage with various power-laden territorialisation concepts (site, boundary, owner, occupier, tenant, adjacency, etc). Layard (2016, p. 43) is critical of too great a focus, or an exclusive focus, on the landowner and their property rights, yet these appear to be strongly embedded concepts in planning regulations. Research could usefully focus on the (de)stabilization of these legal categories (Delaney, 2001, p. 504) and the potential to entertain other relationships to land and property. Fourth, there is scope "to search out the presence *and absence* of spatialities in legal practice" (Bennett & Layard, 2015a, 406, emphasis added). These absences are more difficult to detect than the presence of spatialities in regulatory instruments. What are the silences in planning regulations, the 'things' that are absent, and the actors excluded from or not 'written into' planning regulations? Finally, there is value in engaging in *comparative work* on spatiality and temporality in planning, as there is generally for legal geographic enquiry (Kedar, 2014). Valverde (2011, p. 279) emphasises the importance of contingency in the emergence of particular ways of managing land and property and, through these, people and their actions and behaviours. The exploration of how planning regulations vary in different national contexts in their spatial, material and temporal dimensions could generate considerable insight, especially in comparing systems with varying degrees of state influence and legality.

References

Abram, S. (2014). The time it takes: Temporalities of planning. *Journal of the Royal Anthropological Institute,* 129-147

Bartel, R., Graham, N., Jackson, S., Prior, J., Robinson, D., Sherval, M., & Williams, S. (2013). Legal geography: An Australian Perspective. *Geographical Research*, 51(4), 339-353.

Beauregard, R. (2012). Planning with things. *Journal of Planning Education and Research*, 32(2), 182-190.

Beauregard, R. (2015). *Planning matter. Acting with things*. Chicago University Press.

Benda-Beckmann, F. von., & Benda-Beckmann, K. von. (2014). Places that come and go. A legal anthropological perspective on the temporalities of space in plural legal orders. In: Braverman, I., Blomley, N., Delaney, D., & Kedar, A. (Eds). *The expanding spaces of law. A timely legal geography* (pp. 30-52). Stanford Law Books.

Bennett, L., & Layard, A. (2015a). Legal geography: Becoming spatial detectives. *Geography Compass*, 9(7), 406-422.

Bennett, L., & Layard, A. (2015b). "There are eight million stories in the naked city". *International Journal of Law in the Built Environment*, 7(1), 1-4

Benson, M. (2014). Rules of engagement. The spatiality of judicial review. In: Braverman, I., Blomley, N., Delaney, D. & Kedar, A. (Eds). *The expanding spaces of law. A timely legal geography* (pp. 215-238). Stanford Law Books,.

Blomley, N. (1994). *Law, space and geographies of power*. The Guildford Press

Blomley, N. (2013). Performing property: Making the world. *The Canadian Journal of Law & Jurisprudence* 26, 23–48

Blomley, N. (2014). Learning from Larry. Pragmatism and the habits of legal space. In: Braverman, I., Blomley, N., Delaney, D. ,& Kedar, A. (Eds). *The expanding spaces of law. A timely legal geography* (pp. 77-94). Stanford Law Books.

Blomley, N. (2016). The boundaries of property: Complexity, relationality, and spatiality. *Law and Society Review*, 50(1), 224-255.

Blomley, N. (2017). Land use, planning, and the "difficult character of property". *Planning Theory and Practice*, 18(3), 351-364

Braverman, I. (2014). Who's afraid of methodology? Advocating a methodological turn in legal geography. In: Braverman, I., Blomley, N., Delaney, D., & Kedar, A. (Eds). *The expanding spaces of law. A timely legal geography* (pp. 120-141). Stanford Law Books,

Braverman, I., Blomley, N., Delaney, D., & Kedar, A. (2014). Introduction. Expanding the spaces of law. In: Braverman, I., Blomley, N., Delaney, D., & Kedar, A. (Eds). *The expanding spaces of law. A timely legal geography* (pp. 1-29). Stanford Law Books.

Clark, G. (2001). Foreword. In: Blomley, N., Delaney, D., & Ford, R. (Eds) *The legal geographies reader*. (pp. x-xii). Blackwell.

Cooper, D. (2003). Far beyond 'the early morning crowing of a farmyard cock': Revisiting the place of nuisance within legal and political discourse. *Social and Legal Studies*, 11(1), 5-35

Delaney, D. (2001). Running with the land: Legal-historical imagination and the spaces of modernity. *Journal of Historical Geography*, 27(4), 493-506

Delaney, D., Ford, T., & Blomley, N. (2012). Preface: Where is law? In: Blomley, N., Delaney, D., & Ford, R. (Eds.) *The legal geographies reader* (pp. xiii-xxii). Blackwell.

Ferm, J, Clifford, B., Canelas, P., & Livingstone, M. (2021). Emerging problematics of deregulating the urban: The case of permitted development in England. *Urban Studies* 58(1), 2040-2058

Goodall, M. (2016). *A practical guide to permitted changes of use under the General Permitted Development Order*. Second edition. Bath Publishing.

Goodall, M. (2017). *The essential guide to the use of land and buildings under the Planning Acts including the Use Classes Order*. Bath Publishing.

Grabham, E. (2016). *Brewing legal times: Things, form and the enactment of law*. University of Toronto Press.

Graham, S., & Healey, P. (1999). Relational concepts of space and place: Issues for planning theory and practice. *European Planning Studies* 7(5), 623-646

Grant, M. (1996). *Permitted development*. Second edition. Sweet and Maxwell.

Haughton, G., Allmendinger, P., Counsell, D., & Vigar, G. (2010). *The new spatial planning. Territorial management with soft spaces and fuzzy boundaries*. Routledge.

Kedar, A. (2014). Expanding legal geographies. A call for a critical comparative approach. In: Braverman, I., Blomley, N., Delaney, D., & Kedar, A. (Eds). *The expanding spaces of law. A timely legal geography* (pp. 94-119). Stanford Law Books.

Keenan, S. (2021). Space and belonging. In: Valverde, M., Clarke, K., Darian-Smith, E., and Kotiswaran, P. (Eds). *Routledge handbook of law and society* (pp. 225-228). Routledge.

Laurian, L., & Inch, A. (2018). On time and planning: Opening futures by cultivating a 'sense of now'. *Journal of Planning Literature*, 34(3), 267-285

Layard, A. (2015). Freedom of expression and spatial (imaginations of) justice. In: Kochenov, D., de Burca, G., & Williams, A. (Eds.), *Europe's justice deficit?* (pp. 417-433). Hart Publishing.

Layard, A. (2016). Public space: Property, lines, interruptions. *Journal of Law, Property and Society*. 2(1), 1-47

Layard, A. (2019). Reading law spatially. In: Creutzfeldt, N., Mason, M., & McConnachie, K. (Eds). *The Routledge handbook of socio-legal theory and methods* (pp. 232-243). Routledge.

Lee, M., & Abbot, C. (Eds). (2022). Taking English planning law scholarship seriously. UCL Press.

Lieto, L. (2017). How material objects become urban things? *City* 21(5), 568-579

Lieto, L., & Beauregard, R. (2016). Introduction. In Lieto, L., & Beauregard, R. (Eds). *Planning for a material world*. Routledge.

Mitchell, D. (2003). *The right to the city*. Guilford Press

Pearson, Z. (2008). Spaces of international law. *Griffith Law Review,* 17(2), 489-514

Perin, C. (1977). *Everything in its place. Social rrder and land use in America*. Princeton University Press.

Philippopoulos-Mihalopoulos, A. (2010). Law's spatial turn: Geography, justice and a certain fear of space. *Law, Culture and the Humanities*, 7(2) 187-202.

Platt, R. (2014). *Land use and society: Geography, law and public policy*. Island Press. Third edition.

Prior, J., Crofts, P., & Hubbard, P. (2013). Planning, law and sexuality: Hiding immorality in plain view. *Geographical Research*, 51(4), 353-363.

Rydin, Y. (2020). Silences, categories and black-boxes: Towards an analytics of the relations of power in planning regulation. *Planning Theory*, 19(2), 214-233

Sheppard, A., Peel, D., Ritchie, H., & Berry, S. (2017). *The essential guide to planning law. Decision-making and practice in the UK*. Policy Press.

de Sousa Santos, B. (1987). Law: A map of misreading. Toward a postmodern conception of law. *Journal of Law and Society*, 14(3), 279-302.

Valverde, M. (2005). Taking land use seriously: Toward an ontology of municipal law. *Law, Text, Culture*, 34(1), 34-59.

Valverde, M. (2009). Jurisdiction and scale: Legal 'technicalities' as resources for theory. *Social and Legal Studies,* 18(2), 139-157

Valverde, M. (2011). Seeing like a city: The dialectic of modern and pre-modern ways of seeing in urban governance. *Law and Society Review*, 45(2), 277-312

Valverde, M. (2012). *Everyday law on the street. City governance in an age of diversity*. University of Chicago Press.

Valverde, M. (2014). “Time thickens, takes on flesh”. Spatiotemporal dynamics in law. In: Braverman, I., Blomley, N., Delaney, D., & Kedar, A. (Eds). *The expanding spaces of law. A timely legal geography* (pp. 53-76). Stanford Law Books,.

Wideman. T.J., & Lombardo, N. (2019). Geographies of land use: Planning, property, and law. *Geography Compass*, 13(12), 1-14

Windemer, R. (2019). Considering time in land use planning: An assessment of end-of-life decision making for commercially managed onshore wind schemes. *Land Use Policy,* 87, 104024

Component	*Issues explored*	*Key sources of components*
scale, areas and units	the varying range of **spatial scales and territories** used in planning law	Valverde (2009); Philippopoulos-Mihalpoulos (2010)
fixities and flows	the balance between defining **'objects' and flows** of resources	Beauregard (2015); Layard (2016)
boundaries	how planning law **delineates spaces**	Blomley (2013, 2016)
spatial relations	how 'things' and demarcated units are **positioned in relation to each other**	Valverde (2012)
actors and identities	exploring **who** is written into planning law	Beauregard (2015); Valverde (2005)
activities	examining what these actors **do**	Valverde (2005)
social relations	how those written into planning law are portrayed **in relation to each other**	Valverde (2012, 2014); Keenan (2021)
time and temporality	how planning law **defines and manages time**	Braverman et al. (2014), Grabham (2016)

Table 1. A framework for reading planning regulations using a legal geography lens