

## **Codes in Germany: the “B-Plan” (Bebauungsplan)**

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### **1. Introduction**

This paper reviews the German system of legally-binding plans for development sites and areas in towns and cities. Comparisons are made with the system in England and Wales.

It includes material prepared for the CABE design coding Think Tank session No. 6 and commentary on the discussion at the session held at CABE on Friday 25<sup>th</sup> November 2005.

The help is gratefully acknowledged of Joachim Buck of the Regensburg (Bavaria) planning department who provided information on the Bebauungsplan system and who contributed to the seminar at CABE, and also Daniella Lucchese for translations and preparation of the seminar documents.

### **Planning system in Germany - overview**

The Federal level provides framework legislation only, and in this sense is equivalent to national planning legislation in the UK.

At the level of the 16 German states (Länder), which cover areas similar to the 8 English planning regions but with full electoral accountability and independent budgetary powers, there are two types of planning: State planning and regional planning. The regional planning is for sub regions of the states. The output at state level (Raumordnungsplan and Regionalplan) have a spatial dimension but are strategic in character.

Local planning is carried out by the local authorities. The larger towns and cities have what we would regard as “unitary” authorities with powers in relation to plan making and spatial decision-making. For the smaller communities this planning activity is undertaken at the level of the county (Kreis). This can be likened to the system of highway responsibilities in Britain where responsibility is with the county except in unitary authority areas.

### **3. Local level planning in Germany**

Local planning (Bauleitplanung) includes two types of spatial plan.

- Comprehensive local land use plan (Flächennutzungsplan)
- Local land use and design plan “Bebauungsplan” or B-Plan

The comprehensive local land use plan (Flächennutzungsplan) shows the location of existing development and intended land uses for the entire local authority area (as with English local plans and forthcoming Local Development Frameworks). The policies in the plan are legally binding on the local authorities and public agencies.

Of particular importance in controlling the design, form and intensity of development is the local land use and design plan “Bebauungsplan” or B-Plan for short. This is a legally binding land-use plan with the status of local law developed in accordance with the Flächennutzungsplan, set up mainly in areas where change is proposed: new development or redevelopment. These plans are relatively detailed (even in comparison with the masterplans produced for larger development areas in England) and also are legally binding documents. There is no equivalent to the B-Plan in England or the rest of the UK.

In effect, the German system at the local level has two levels of legally binding land use plan; the system in England and Wales has only one.

A summary of the systems in Germany and England is provided in the Table at the end of this paper.

The rest of this paper focuses specifically on the B-Plan.

**Table 1: The B-Plan within the German local planning system**

	Germany	Legally binding?	England & Wales	Legally binding?
<b>Town/City strategy for entire local planning authority area</b>	Comprehensive land use plan (Flächennutzungsplan) (1:5,000 to 1:15,000)	Yes	Local Plan (in future Local Development Framework) (Usually 1:10,000 or larger for densely built areas)	Yes
<b>Themes and specific areas</b>	Masterplans for larger development areas, plus transport and other plans	No	Supplementary Planning Guidance (Sometimes a masterplan or development brief, as below, sometimes for theme such as open space or conservation)	No
<b>Development principles for areas or sites where change is foreseen</b>	Binding land use and design plan (usually 1:1000) (Bebauungsplan, B-Plan) (Some private sector initiatives, especially in the former east)	Yes	Masterplans or development frameworks (not for all areas of change), either public or private sector. But not usually as detailed as the German B-Plan.	No
			<i>For specific sites only</i> <b>Developer initiative:</b> outline planning application (with reserve matters specified)	Yes, if built
<b>Design proposals for specific sites</b>	Developer initiative conforming to Bebauungsplan	Yes, if built	Developer initiative: detailed planning application	Yes, if built

Note:

1. Plans legally binding plans in both countries bring obligations for public consultation, although the extent of this varies.

The discussion and approval stages are different at the development area scale, with consultations and decisions on form and structure coming later in the process in England and Wales, and being largely reactive to developer initiatives. In Germany private building projects mostly have to react to publicly determined detailed plans (Bebauungsplan) that have no equivalent in the system for England and Wales.

## **4. The B-Plan (Bebauungsplan)**


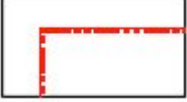







### ***4.1 The form of the B-plan***

B-plans are much more detailed than local plans or UDPs. Circumstances dictate exactly what they contain, but their main feature is that they set a combination of mandatory building lines (that essentially set the boundaries of the main public spaces and routes) and discretionary building lines to set some pattern to the urban form without being too prescriptive about building footprints. Building heights and massing are also usually indicated, and there may be specifications for 'open' or 'closed' built form (eg. detached versus terraced/perimeter block forms), but the nature and style of the built form is otherwise open to creative interpretation.

Other parameters that are likely to be set include ways of dealing with environmental issues and the required approach to movement, circulation and parking.

B-Plans have a standard graphic format with consistent symbols, nomenclature, colours and styles used for all plans. Where a B-Plan is based on a developer's plan, they are translated into the standardised form. There is, therefore, a code that sets the standards for the appearance of the B-Plan. A standard template makes life easier for everyone: all officers and developers can readily understand them. (The standardised format is specified at the Federal level [check] through the Baugesetzbuch and its subsidiary rules.)

Table 2: Some examples of standard B-Plan notation

<p>Blue broken line = Baugrenze</p> 	<p>Required set-back line (Buildings must not be forward of this line, but there is flexibility to set them further back)</p>
<p>Red broken line = Baulinie</p> 	<p>Fixed building line (Buildings must be built to this line)</p>
<p>Yellow</p> 	<p>vehicle areas (which may include vehicle areas shared with other areas (i.e. shared spaces or what in the UK may be called Home Zones)</p>
<p>Yellow with orange hatching</p> 	<p>Pedestrian areas</p>
<p>Red</p> 	<p>Housing areas (stippled red = front garden area)</p>
<p>Brown</p> 	<p>Mixed use area</p>
<p>Grey</p> 	<p>Industrial area</p>
<p>Green</p> 	<p>Public green areas</p>
<p>Black arrows</p> 	<p>Vehicle access ways</p>

## 4.2 Examples from Regensburg and Freiburg

### *Regensburg*

In Regensburg, a city of 80 square kilometres and a population of 128,000 there are around 60 B-Plans for various parts of the city. This would far exceed the number of masterplans produced for areas within UK cities. The extent of the city that is covered by B-Plans can be seen in Figure 1.

We examine one B-Plan in more detail, namely that for “Burgweinting Mitte”. This is a development covering \*\*ha and \*\* dwelling units together with open spaces, a new local centre, school and other uses.

In this example the local authority led the process. Architects were involved in the process of devising the B-Plan, and this is reflected, for example in the fact that the internal block structures are indicated as well as the building lines.

It is expected that development of the area will take around 5-7 years. Here the B-Plan sets the urban form for a site adjacent to a major railway line and there is an emphasis on noise protection measures. For example:

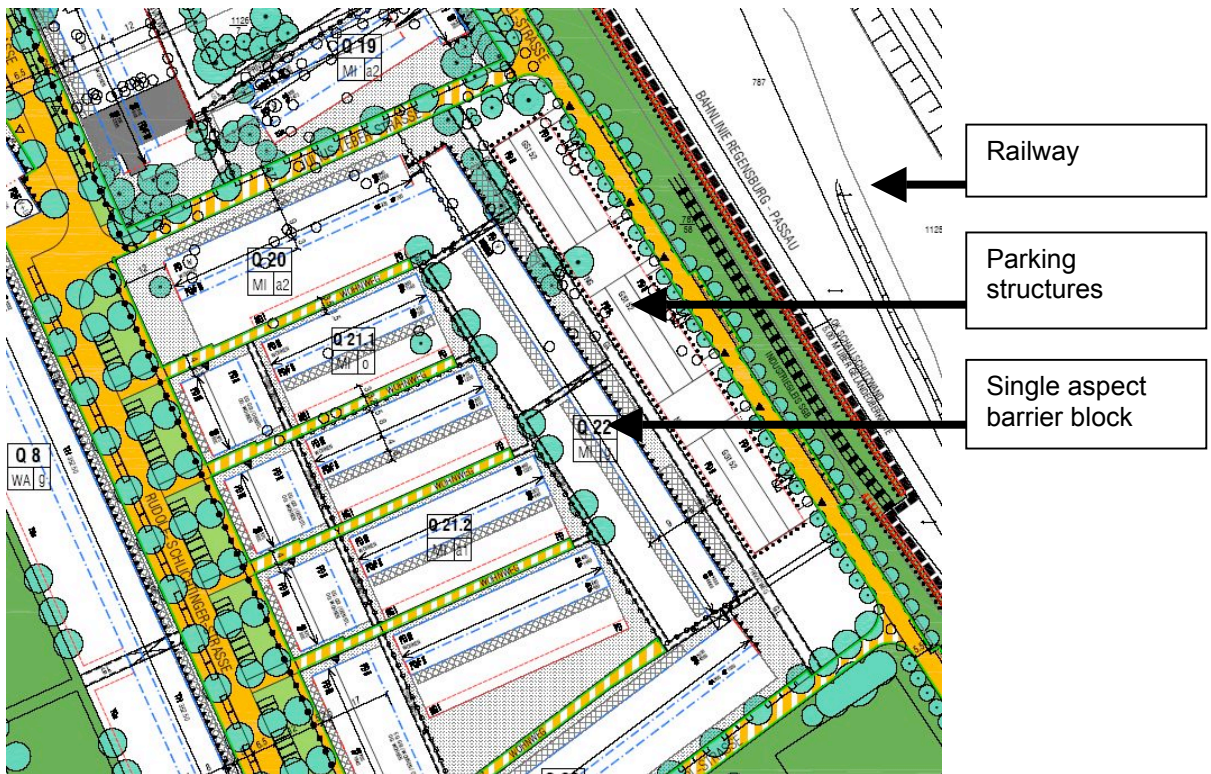
- Single aspect housing with habitable rooms facing away from the railway;
- A two-tier parking structure placed between the housing and the railway to assist in noise mitigation;
- The single aspect block one storey higher than the other blocks to “shelter” them from railway noise.



Figure 2 B-Plan for Burgweinting Mitte



Figure 3 Detail of B-Plan – Burgweinting Mitte



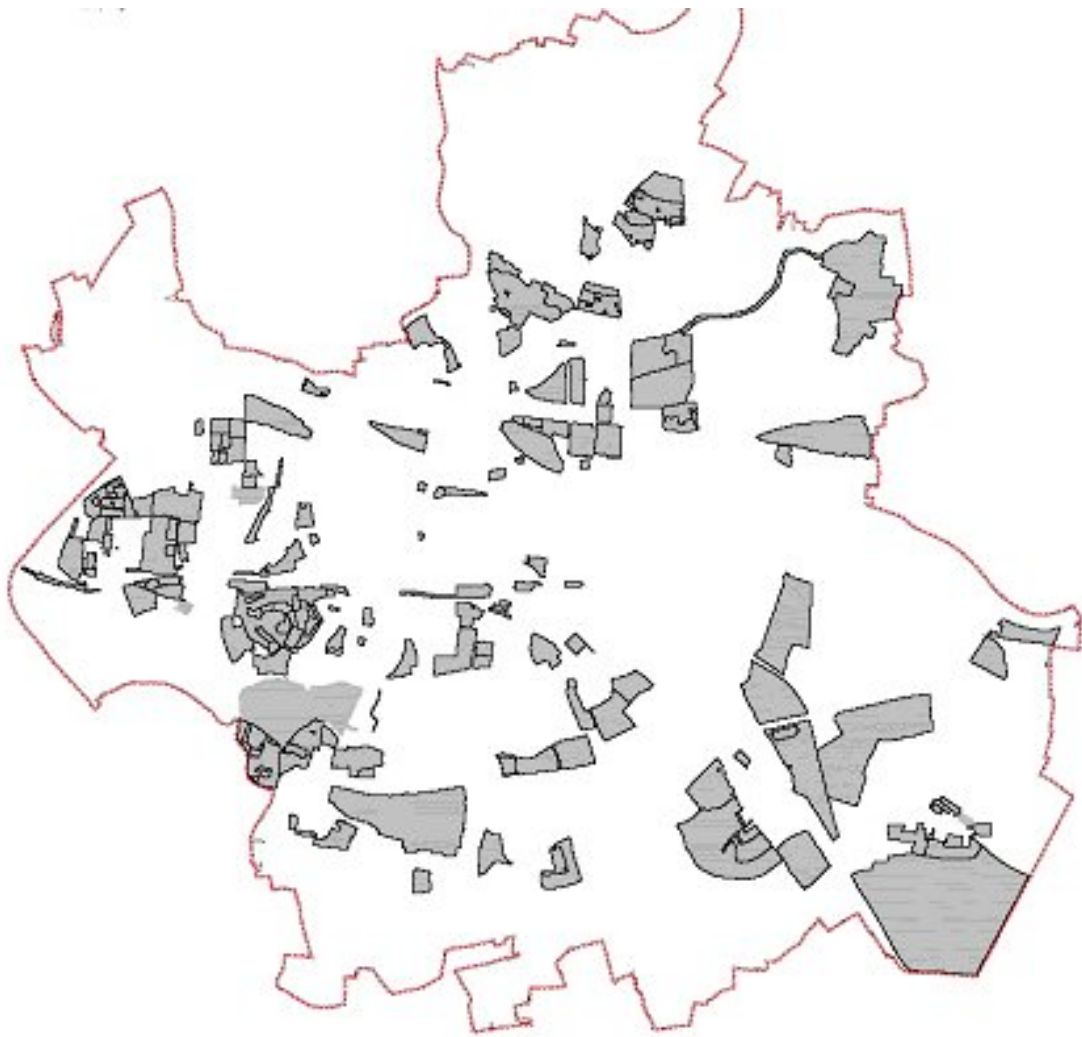
### *Other examples from Regensburg*

It is possible for B-plans to be revised: usually if market conditions change, or if there is no interest in developing the site. This was never likely to be a danger at Hochweg South in Regensburg where the impetus for preparing the B-plan came from the private sector rather than the local authority.

Developers put forward ideas for a high density residential area near to the city centre, around a large, shallow artificial lake, with parking underneath. As in most parts of Germany, the developers were a relatively small, local firm, rather than a bigger regional or national provider.



Figure 1: The location of B-Plans in Regensburg



#### Vauban, Freiburg

As with Regensburg, the B-plan for Vauban sets the public spaces, thoroughfares, mandatory and advisory building lines, and building heights. The main infrastructural consideration is a new tram line and station, which dictates the higher densities that are possible nearer the interchange. The really distinctive feature of Vauban is that development was taken forward by such a range of different parties - individuals and co-operatives, as well as

developers - and such a range of responses to the B-plan have therefore been possible, from bespoke to volume products. Quite a lot of play is possible within the regimented plot division.

Within the B-plan, it is possible to fix such parameters as the size of window openings, materials, etc. but this was not the case with Vauban: the architectural forms are largely dictated by taste and fashion rather than a response to constraints or guidelines in the B-plan. More prescriptiveness is generally a feature of B-plans for historic city centres or conservation areas, where there are other considerations and constraints to take into account.

Much depends on circumstances and the willingness of smaller developers and families to take on these kinds of projects. Development by these sorts of parties would generally be the preference for local authorities but, if a single developer wanted to take on a large site such as Vauban, they would be allowed to do so if there was no other interest. B-plans also give limited scope for controlling design, so a local authority is rather dependent on the vision and abilities of those who develop the land. In Vauban, it went well, but it could just as easily not go well elsewhere. Local authorities would tend to have some design guidance, but these would not be binding in the way of B-plans.

## **5. The B-Plan in operation – certainty and flexibility**

Can and should the English system be adapted?

The B-plan looks quite rigid in theory, but in practice proves to be flexible, allowing for distinctiveness. Three quite different approaches in terms of process and participants were presented:

1. institutional response, led by the local authority (Burgweinting Central, Regensburg)
2. developer-led response, with B-plan as product of a commercial decision (Hochweg South, Regensburg)
3. co-operative / individual response, as at Vauban in Freiburg

Speed of planning decisions is also enshrined in the German system and facilitated by the B-plan structure. Local authorities have only four weeks to respond to an application (after which the default response is to grant permission) - but it is relatively straightforward to assess whether or not something is in accordance with a B-plan. Both the nature of the B-plan (setting simple physical constraints) and the presentation (consistent graphic style) contribute to this.

The level of detail in a B-plan varies depending on the sensitivity of the site in question. It is binding on landowners, so development must follow its designation. It sets out the detailed intentions for sites so it lays down strict guidance on the permitted uses, density, layout, service provisions, types of development and specific criteria including height, colour, roof pitch etc. On the whole, authorities would not approve B-plans for development on sites not allocated for that use in the *Flaechennutzungsplan*.

Planning permission and building warrant are combined in a single permit (*Baugenehmigung*). Proposals that are consistent with the B-plan are permissible. In the case of a significant but unforeseen development, a B-plan would be prepared or altered first. Many of the more significant developments are subject to architectural competition. According to the rules, the results of the competition are to be refined for further development, mostly into a B-plan, which becomes the legal basis for building permission.

6. Comparison of design inputs in the German and English systems
7. Quality of outcomes
8. Questions and answers

## Issues highlighted by the German system

### *Comparison of design inputs*

B-Plan the design input is in advance of developer proposals, and the developer is obliged to work within the code set down, both in relation to use and form. The time taken to prepare a B-Plan is up to about 18 months, which does not seem long to wait for a positive design framework. Moreover, once approved, the B-Plan can help to reach rapid decisions on development proposals. This contrasts with the British system where the planning authority can and often does open up discussion from first principles every time a planning application is submitted.

### Main themes highlighted by the overseas examples

It is noticeable that many of the differences between the French, German and British systems are not a product of law, systems, processes or habits, but derive from more deeply-ingrained cultural distinctions, relating to public culture, the development industry, professional culture, land ownership and the planning system.

#### Public culture

In Germany and France, town building has not been privatised in the way it has in the UK. Creating public realm is still a public responsibility and has not been devolved to, and fragmented among, individual (private) deliverers, and inevitably reduced to an afterthought.

Responsibility for the public realm has been abrogated in the UK. Adoption by a local authority, post-development, is the main mechanism we have for influence over the public realm by a public authority. This control is after-the-fact, and its emphasis is on management and maintenance of space, therefore there is virtually no prospect of influencing the physical form of the public realm.

#### Land use

There is not the same obsession with land use in France and Germany as there is in the UK. B-plans, plans locales and règlements are more concerned with getting streets, public spaces and basic structures rights, in relation to constraints, wider movement systems and over-arching considerations such as sustainable design.

How land is parcelled up for development also has a crucial bearing on the form of development. The B-plans show that there may be some merit in a fairly detailed subdivision among different owners.

### Architectural style and character

There is not the same kind of concern in France and Germany to control style and character as there is in the UK. In the latter, there is a tendency to reduce all issues of character to materials and details, whereas it should really be about relation to, and integration with, existing settlements and uses. One can have a varied architecture that does not copy the style of adjacent areas but is still recognisably 'of that place'.

Codes in the UK tend to be based on explicitly historicist notions of what a place should be like: they describe an idealised form from a particular historical period, and they seek an aesthetic rooted in the imagined past. It is worth comparing this to the aspirations behind Vauban: time-neutral, based on urban design rather than aesthetics, and driven by a range of individuals and collectives acting on social motivations. In its concern with ecology, energy use and so forth, it is recognisably 'modern' as opposed to historicist.

It was suggested both that we in the UK often have a false conception of what is important in place-making, and that we pursue things that are easier to grasp in conceptual terms and easier to describe and control - namely, surface appearances and detail. As a consequence, we neglect the structure and the distinctly public elements.

### Housing delivery

In Germany, there is a diverse set of delivery mechanisms for building, whereas housing in the UK is almost exclusively delivered by the principal volume housebuilders, who are averse to risk and change.

Is our motivation to produce codes rooted in a dislike of what is currently being delivered by the standard development process? If so, there is a problem, as we are fighting against a whole culture of housing delivery and against the operation of the housing market. The 'code' for Vauban worked in the way it did because of a collective and political will to deliver places of that sort, not because of anything intrinsic to the 'code'.

### Law, planning and politics

In France, the legal system enshrines planning requirements as part of local law. In the UK, we suffer from dependence on the lay committee as the arbiter of planning decisions, who concentrate on what they like and do not like at the expense of underlying structures - the length of their tenure as representatives mitigates against anything other than short-term thinking.

The application of B-plans is an administrative rather than political process. The political input - such as the incorporation of explicit sustainable development objectives - occurs during the preparation of B-plans, whereas in England, the political element is predominant in the delivery stage, when applications are considered.

One of the problems in the UK is that the concept of towns and cities so rarely figures in the process: policy is cross-district/-borough and these tend to include a variety of urban, suburban and rural areas. We might conclude that using the planning process to get to developers is not really working: why would codes have any effect in this context, or in any way change the UK development culture?

#### Professional culture

Highway engineers and planners in France and Germany are urban designers, and vice-versa. The subject of their professional input is the public realm. There is no equivalent to the tension and contradiction that exists between highways and planning in British local authorities. And clearly there are not the professional institutions representing planning and highways that perpetuate the divisions and the silo mentality in the UK.

#### **Conclusions**

In spite of all these issues, what we have seen is that codes are potentially a powerful tool for raising the quality of urban design on the sites where they are employed. Land ownership issues have a significant effect on their level of success in this respect. Perhaps we should make it mandatory for public agencies to procure development on their land using design codes? One of our main problems is the issue of professional cultures and the structure of public authorities: if codes really do get planners, highway engineers and urban designers together at an earlier stage in envisaging and designing a place, this can only be a positive move.

The B-plans show the importance of consistency of development across an area, even where there are numerous developers. In these situations, it is particularly important that the plans provide for clarity and certainty: both graphic style and prioritising streets and public spaces contribute to this.

The DFT's revised Manual for Streets offers hope for positive engagement of highways engineers with urban design and public space issues. But health and safety considerations still pose a problem, in putting an absolute priority on minimising risk.

## Questions

Codes – International Examples

Discussion and Questions

Law and Land

1. The legal basis – given the differences how much can we take from the German and French experience for use in England?
2. What are typical land ownership arrangements, and who is typically likely to build out against the code – e.g. large site in single public ownership, or small individually owned plots, large private developer taking whole site, or number of small developers?
3. If in public ownership, will it be hived off to small plots, or built out en masse?

Process

4. At what stage in the process does a specific development proposal gain consent?
5. If the proposal automatically gains consent if it meets the terms of the code, what are the checks on compliance and when do they take place?
6. If automatically gains consent on meeting the code, but still what might be considered likely to deliver a poor outcome, what extent is there negotiation to obtain something better, what pressure can be applied, and how resolved if no agreement?
7. How long are the codes expected to remain in place, and what is the process for review?
8. What are the mechanisms for infrastructure provision, and when are decisions of infrastructure likely to be taken? – pre adoption of plan, with state funding, or post plan with private contributions?

Code drafting

9. What consultation takes place before drafting?



10. How are the community involved in the plan/code process
11. Who drafts the codes?
12. In terms of sustainable construction, to what extent are principles of embodied in the plans?

#### General

13. Given the differences in planning law and process, to what extent do the German and French systems of coding prove a viable model for the UK?
14. Are there aspects of UK planning that might easily be adapted to work in a similar manner to German and French systems that might improve the viability of codes?
15. What has come out of the discussion that we should be looking at in terms of ODPM's development of policy and CABE's development of good practice guidance on design codes?

## 1. Can and should the English system be adapted?

### Contrasts with the UK

This indicates a key difference between Germany and the UK. German expectations for housing are radically different, and the kind of built forms that Vauban contains are very much 'in vogue' in Germany. Unlike the UK, there has been a distinct reaction to some of the more disappointing housing forms of the 1980s. The market is far more focused on occupier-demand and this has allowed significant responses to the ecological agenda with much more constructive use of energy-saving technologies. In the UK, the prevailing seller's market, the enormous recent inflation in house prices and the frequency with which properties change hands, leads to conservatism, with owners predominantly concerned with maximising returns on investment. The culture of the construction industry is another major difference, wherein smaller developers are much more active in Germany and it is not the case that five or six companies dominate the market as they do in the UK, producing a limited range of conservative products.

## Annex 2

### Design Coding Think-Tank 6

Date: Friday 25<sup>th</sup> November 2005, 12.30-4.45pm

Venue: 1<sup>st</sup> Floor, CABE, 1 Kemble Street, London, WC2B 4AN

<b>AGENDA</b>		
<b>12.30pm</b>	Lunch	
<b>1.15pm</b>	Opening remarks and theme for the day	Alastair Donald (CABE)
<b>1.20pm</b>	<b>CABE Update</b> <ul style="list-style-type: none"><li>▪ Programme update</li><li>▪ Pilots - 2 minute update on each pilot from enabler</li><li>▪ The Programme conclusion</li></ul>	CABE Enablers - MC/RE/JR/JC/LN/ML/BE  CABE
<b>1.35pm</b>	<b>Lessons from abroad (1).</b> Der B-Plan - Bebauungsplans for Freiburg & Regensburg.	Joachim Buck (Stadt Regensburg) Martin Crookston, Tim Pharoah & Daniela Lucchese, (LDY)
<b>2.30pm</b>	Coffee	
<b>3.00pm</b>	<b>Lessons from abroad (2).</b> Codes de la construction – an Anglo-French alignment?	Karl Kropf (RE)
<b>3.50pm</b>	<b>Tackling the Housing Deficit</b> – issues to consider for Design Coding guidance.	CABE
<b>4.40pm</b>	Wrap Up	CABE
<b>4.45pm</b>	Close	