Done? You certainly have been!

Stan Edwards has sympathy for the people of Newport as he returns with the "Friar's Walk" sequel.

In the summer of 2016 I submitted an article that I thought would be my last on the subject of a decade of the demise of the retail led regeneration compulsory purchase order (CPO) – a tale of "unrealistic expectations", where the intervention by government funding fed, retail led, regeneration CPOs left a legacy of many completed but half let retail schemes.

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There is an epilogue! I have tracked the Friar's Walk scheme, Newport, on a professional and academic level for many years[1] and there is now an eventual sale to an investor. The South Wales Argus recently made the headline quote, *"A Done Deal"* in respect of the Friar's Walk scheme, provoking Fletcher's quote in "Porridge" – *"Done? You certainly have been!"*

No matter how you wrap this up, the ratepayers of Newport are now stuck with a rent share agreement, paying a top-up of the rent (termed an investment subsidy) of £500,000 per annum into the foreseeable future, for an aspirational vanity city centre scheme that never did stack up in commercial terms from the outset – it was never adequately appraised for the John Frost Square CPO in 2006[2]. Time and again, promoters of such schemes cannot seem to comprehend the difference between "want", "need" and "demand". The approach would have been different if it was a completely commercially promoted scheme, but this was one delivered by public intervention through a CPO and all the rigours of the public interest that were supposed to accompany that.

Wellbeing and public interest

The CPO purpose was for redevelopment and the power was appropriate. However, what we have evidence of now, which was wanting all along, was that the qualifying compulsory purchase empowerment by Section 226 (1)(a) of the Town and Country Planning Act 1990 as amended and fulfilling the qualifying well-being condition of s.226 (1A) was only half the argument.

The public interest for which there must be a compelling case is much wider and must look deeper into the collateral impact of the scheme as to whether it is for the wellbeing of the citizens or a project focused on just one facet of the town/city. The local authority promoters with an "attention bias" will not investigate far beyond their (with the developer) argument to push the scheme. It is left to those who challenge such a scheme to put up the argument but they do not usually have the funds to raise a significant objection or challenge.

The first indicator of doom was the failure of the developer partner Modus Corovest Newport Ltd., that became unable to fund 100% of the capital required to secure control of the development area. Modus informed the council in 2009 that the previous (original) scheme was undeliverable in the (then) current economic climate. The effect was to take away the developer funding mechanism. Newport City Council then decided to still progress the CPO based scheme.

The signs were there for all to see. Yes, the economy had collapsed but scheme promoters failed to recognise the change in the pattern of retail shopping and the urban structure. The city council had fallen into the trap of attempting the reversal of urban growth. In other words, they felt, erroneously, that if they created something attractive enough, the shoppers would return. The market had said "no" and the council did not even seek unfettered independent market advice.

Next came the High Court challenge of Iceland[3], after which the city council wriggled through the comments contained in the Judge's decision. The Judge read as a whole the relevant reports from the council's Cabinet, in that they were being advised *"to take a course of action which will best facilitate the carrying out of a redevelopment scheme at John Frost Square"*. The Judge's decision significantly held that the site was to be re-marketed on the basis of existing terms and conditions and that the permitted scheme could (in the Cabinet's view) still viably be delivered, obtaining alternative funding from another developer.

Newport City Council in October 2010 decided to seek another developer partner and ended up with Queensberry Real Estate. The trouble is that under-girding CPOs is a requirement that there must be a reasonable prospect the scheme will proceed. Did that align with the Judge’s comments in the *Iceland* case? Of course not, but when the council in its vanity found that the developer could not get market funding, it decided to apply for a Public Works Loan Board (PWLB) loan of £90 million to pay for the development to proceed. Remember that this was against what the market was saying and exposed the Newport ratepayer to a possible risk of paying off the loan if the wheel came off.

Perceptual and behavioral biases[4]

Newport City Council suffered what, in terms of real estate behaviour, is termed “optimism bias”. This is also known as “developer’s syndrome” – the eternal optimist who believes it will all work out and then acts in a decisive, committed manner to assure that it does occur. The trouble is that this blinkered approach takes no account of the impact on other businesses in the city, let alone the intense competition in the centre, to capture limited consumer spending. These schemes never seem to consider collateral damage.

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Below are just some of La Salle’s behavioural biases that the reader may consider applying to this case, or those cases which may be more familiar:

Anchoring – a tendency of a decision maker to place extra weight on certain key indicators or factors in making a decision at the expense of other factors.

Attention bias – looking at something too narrowly, ignoring other elements or attributes that may make a material difference.

Authority bias – this is a risk management technique in which a consumer places more importance on the opinions of experts or others than warranted. If the decision is wrong, the consumer can blame the expert rather than accept personal responsibility for the error.

Bandwagon/herd bias – a tendency to get caught up in the momentum of the market; to defer to others in arriving at a belief; the lemming phenomenon.

Believability bias – this bias relates to whether something is credible, whether it is plausible or within the range of possible outcomes.

Consistency bias – this relates some activity or event to some prior experience or belief, to determine whether the perception is consistent with what one believes or expects to be true.

Familiarity bias – this is the tendency to focus on items or attributes with which one has some past experience and/or was helpful in making prior decisions.

Normalcy bias – failure or inability to plan for the unknown events that have not occurred in the past or in one’s experience, even though they are plausible and might occur.

Ostrich bias – ignoring the facts by putting one’s head in the sand to make them go away or change the reality surrounding some event or circumstance.

Outcome bias – judging the quality of a decision by the outcome rather than the decision support; this feeds into “track records” which are widely used in selecting vendors/advisors but are difficult to analyze in terms of attribution (i.e., luck vs. skill).

Primacy bias – placing more weight on recent events than in long term patterns or trends as in the case of the record low cap rates leading up to the real estate crash in 2008.

Projection bias – extending one’s own beliefs, opinions or attitudes to others believing they will also embrace them. Reference group bias – deferring to the actions or beliefs of others with whom a decision maker has an affinity or holds in high regard.

Selective perception – this is a filtering technique in which a decision maker focuses on positives (or negatives) that are consistent with a prior belief or perception to reinforce that belief, ignoring other facts.

Survivorship bias – focusing on the winners, rather than recognizing the losers that fell along the way; failing to recognize the risks associated with various activities or actions.

The relative success of ”Best Value”

Newport City Council considers Friar’s Walk disposal as a success and in a way “Best Value” is because, in its partnership with the Talisker Corporation, the ratepayers do not have to pay off the whole of the massive £90 million loan. However, the upshot is that Friar’s Walk was never in a position to compete its way into success because of Newport’s inherent congestion and inconvenience problems, plus other alternative retail opportunities preferred by shoppers (e.g. Cardiff, Cwmbran, Cribb’s Causeway, let alone those in greater Newport) – big spending travels by car.

Don’t get me wrong, it looks good, but it went ahead because of the ostrich mentality of politicians of all shades and regeneration zealots who only wanted to focus on unrealistic aspirations. What was never understood (and not just by Newport but by many other authorities as well) is that spending power is finite and has to come from somewhere else to make a scheme tick. In other words, retail somewhere else has to suffer for Friar’s Walk to succeed, remembering that shoppers exercise consumer preference. The number of eating places in the finished scheme demonstrates this. There are too many competing with each other and places outside the centre too. If Friar’s Walk cannot capture spending from elsewhere, it will gradually wither or those elsewhere will close.

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The people of Newport will now have the council’s budget cut to the tune of £500,000 per annum for the foreseeable future, just for the sake of some form of “iconic” legacy. Also, the trouble is that we cannot blame any particular political party – they’ve all had their paws in producing something that always needed to be rescued. Whereas “accentuate the positive” is the mantra for most authorities promoting CPOs, this tends to be opaque and not sustainable in approach. These days, the public interest is couched in terms of wellbeing, sustainability and community engagement, and planning framework protected by statute. Many times, these terms only feature as glib statements, and Communities First outcomes is another example of that. Too often it is not market failure that causes the ultimate urban problem but a too eager desire to intervene. As I have said in the very first article based on this scheme, *“Striving to better, oft we mar what’s well”* [5] The people of Newport will have to be very careful in the future watching the “light bulbs” in the council come up with other aspirational ways of spending money!

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Footnotes:

1 IRRV *Valuer* magazine – June 2011, June 2012, September 2013, June 2014, June 2016.
2 Newport City Council (Redevelopment of John Frost Square) Compulsory Purchase Order 2006.
3 R (on the application of) Iceland Foods Ltd Claimant v Newport City Council - defendant Neutral Citation Number: [2010] EWHC 2502 (Admin) Case No: CO/2654/2010 in the High Court of Justice Queen’s Bench Division Administrative Court at Cardiff.
4 James La Salle – Behavioural Real Estate.
5 King Lear.