

This isn't just a planning decision, this is an M&S planning decision

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The hottest planning decision of the summer is in! Last Thursday, the Secretary of State for Levelling Up, Housing & Communities rejected Marks and Spencer's scheme for the demolition and redevelopment of their flagship Art Deco store at Marble Arch. This came as surprise to M&S, as Westminster City Council had recommended the scheme be approved in November 2021, before the decision was called in by the SoS, Michael Gove. The inquiry has been regarded as something of a litmus test for how seriously local planning authorities are taking environmental factors into their decision making, specifically when it comes to the retrofit vs rebuild debate, and the release of embodied carbon.

It is interesting that the building is not of sufficient merit to warrant statutory listing, though in his decision, Mr. Gove outlined how the scheme conflicted with development plan policies that deal with design and heritage, attaching "significant weight" to these factors. Whilst he only attributed "moderate weight" to environmental factors, he concluded that the proposal would "fail to support the transition to a low carbon future, and would overall fail to encourage the reuse of existing resources, including the conversion of existing buildings". Regardless of the weight attached, however, the decision still marks a watershed moment for the planning system; environmental factors are now a potentially decisive factor in planning decisions.

Where we go forward from here is unclear. In the last few years, the retrofit vs rebuild debate has become more prominent, however getting down to the nuts and bolts of a scheme's sustainability credentials is incredibly hard. The retrofit vs rebuild debate becomes especially complex where a new scheme is stated to provide far better sustainability credentials than the existing scheme in the long run. This will need to be more rigorously tested as bogus green washing won't wash anymore.

M&S had claimed that the current site is a warren of misaligned floors, and not fit for today's modern customers or staff. They therefore argued that the core was unsuitable for retrofitting. In their application, M&S boasted that the scheme would be among the top 1% in London on sustainable performance. They claimed that payback on the carbon investment should be 11 years in a building with a lifespan of more than 100 years. On its surface, this seems like exactly the sort of scheme local planning authorities should be encouraging to come forward. However, the major issue with embodied carbon calculations in planning applications is that very few people are actually qualified to understand them. As a result, data can be spun to spuriously justify demolition over refurbishment, when in the vast majority of cases, refurbishment is the more carbon efficient option.

Henrietta Billings, director of SAVE Britain's Heritage, spearheaded the objections to the M&S scheme, noting that "it's impossible for a planning officer to interpret and interrogate the figures presented to them by a well-funded applicant". This is precisely what SAVE argued at the inquiry, outlining how the 11 year carbon payback promised by M&S was totally misleading. We note that the parties are currently locked in legal action against each other regarding what SAVE allege are false statements made by M&S in press releases.

The reaction to the decision has been varied. Inevitably heritage and environmental bodies applauded the decision, whilst business leaders in the West End did not. M&S boss Stuart Machin didn't exactly take the decision in his stride; "We have been clear from the outset that there is no other viable scheme - so, after almost a century at Marble Arch, M&S is now left with no choice but to review its future position on Oxford Street on the whim of one man. It is utterly pathetic."

The fallout from this decision will be both immediate and longer term. Many local planning authorities currently have similarly contentious schemes in the pipeline, and have been eagerly awaiting a steer from the SoS on the appropriate weighting to be given to environmental factors. Longer term, it seems that local planning authorities are going to have to test far more rigorously whether a blank slate is necessary for a scheme, and they will need to be able to cross-examine the claims made by applicants. It is noteworthy that many schemes in the last few years have coincidentally required just the right combination of features that would make any retrofit impossible, whether that be one floor too many for the existing core to cope with, or the need for that third-floor basement that would undermine the existing structure. In future those claims will have to be fully justified.

Developers are going to have to think strategically when it comes to site selection. Where they already hold the site in question, developers may have to accept that they might not be able to justify redesigning from a blank slate. It is always at a time of policy shift like this that difficult decisions need to be made. A retrofit may be more tricky and could be less profitable for the developer but can often bring more rewards for everyone else involved.