Town Planning in Malaya

by

T. A. L. CONCANNON,


Government Town Planner,

Federation of Malaya.

Reprinted from PETA
The Journal of the Federation of Malaya Society of Architects
Volume 1, Number 4, November 1956.
Town Planning in Malaya

by

T. A. L. CONCANNON,
F.S.A., F.R.I.B.A., M.T.P.I.,
GOVERNMENT TOWN PLANNER,
FEDERATION OF MALAYA.

(Author's note: This paper was read at the Malayan Engineering Congress 1956, held at Kuala Lumpur, on the occasion of the 10th Anniversary Celebrations of the Technical Association of Malaya. It is necessarily short and synoptic, since only a limited time was available for reading. It was, however, elaborated with detailed comment on such important factors as three dimensional planning, visual effect of buildings and control of elevations, and design and siting of street furniture — lamp standards, bus shelters, telephone kiosks, signs and advertisement hoardings, etc.

Reference was made to the need for greater and more varied use in buildings of colour and local products including stone, timber, and brick, and criticism expressed of the very apparent poor weathering qualities of some of the materials (e.g. paints) in current use as external finishes to concrete and cement rendered structures).

INTRODUCTION

In a short paper of this nature it is not possible to attempt more than an explanation in general terms of the aims of town planning and a description of procedure and legal implementation followed in the Federation. This paper has, therefore, been prepared to give an overall picture of the organizations for town planning, their method of operation, and what it is they are attempting to achieve — namely, the best use of the land in the interests of the community.

FEDERATION AGREEMENT, 1948.

Town Planning is referred to in the Federation of Malaya Agreement, 1948, as follows:

SECOND SCHEDULE

POWER TO MAKE LAWS AND EXTENT OF EXECUTIVE AUTHORITY.

Local Authorities. Item 76. Town planning and housing to the extent of ensuring uniformity of legislation (which confers executive authority on the States and Settlements) and

FEDERAL TOWN PLANNING DEPARTMENT.

There is a small Federal Town Planning Department within the Ministry of Natural Resources and Local Government (formerly the Ministry of Local Government, Housing, and Town Planning). The Department had until recently one office in Kuala Lumpur, and its functions are entirely advisory: no mention is made of the Town Planner or of the Federal
Town Planning Department in extant law and it is not, therefore, obligatory for any local planning authority to seek the opinion, advice, or assistance of the Department. Also, it is not obligatory to accept any opinion, advice, or assistance that may be sought and given by the Department.

It is interesting to record, however, that the office was inaugurated as early as 1921 with the appointment and arrival in Kuala Lumpur of the late Mr. C. C. Reade as Government Town Planner, Federated Malay States.

In 1929 the Department was decentralized to States, and offices were set up in Kuala Lumpur, Ipoh and Seremban. Later, in 1933 at the time of world depression, the Department was again centred in Kuala Lumpur and continued its work in Perak, Selangor and Negri Sembilan: subsequently some assistance was extended to Pahang.

The Department was re-formed after the end of the Japanese occupation with one office in Kuala Lumpur, and is today the Town Planning Department, Federation of Malaya. In November of 1955 a branch office of the Department for the southern region was opened in Johore Bahru, and it is intended to open other regional branches this year.

The main duties of the Department today include advising the Federal, State and Settlement Governments and the local authorities in matters relating to town planning, in preparing overall schemes and layouts of particular areas, designing details of pooling and redistribution of land held under separate ownership in order that an equitable scheme for sensible orderly development of the whole can be executed, and in advising upon plans submitted by private developers.

In the (former Federated) Malay States of Perak, Selangor, and Negri Sembilan it is customary, as a legacy from practice in the past, for the Department to prepare R.S. (requisition for survey) plans when requested by the local authority, after a planning proposal has been approved and before the Survey Department carry out actual survey and ground demarcation of the approved scheme.

LOCAL PLANNING AUTHORITIES

In the towns of Kuala Lumpur, Penang, and Malacca the local authority for town planning is the Municipality. The Federal Town Planning Department in former years undertook in Kuala Lumpur all town planning duties for the Sanitary Board, the Town Board and later the Municipality. In 1955 this work was taken over by the Municipality on the setting up of their own planning section of the Municipal Engineer's Department. Elsewhere the local planning authority is, in the Settlements, the Rural Board and, in the States, the Town Board (formerly the Sanitary Board) or the Town Council (where these have recently been created in place of the Town Board) or the Local Council (which may be formed within, or outside, the limits of an existing Town Board or Rural Board). Outside those areas, control of development may be effected by application of law under Gazette Notification (Section 150, Cap. 137 — Extended Application of Enactment) — it is interesting to note that this important power has rarely been exercised, with obvious undesirable results on the fringe of developed areas and in unsightly and dangerous ribbon development along main roads.

THE LAW

The law relating to town planning and defining areas of control is contained, in some part, in each of the following:

(a) F.M.S. Enactments, Sanitary Boards, Cap. 137, Part IX, "Town Planning", and other Sections of that Enactment together with certain other comparable Enactments.

(b) F.M.S. Subsidiary Legislation, Sanitary Boards, Cap. 137 (building by-laws, etc.).

(c) Straits Settlements Ordinances, Municipal, Cap. 133 (Applies to Municipalities, and extended in whole or part to the Rural Boards of Penang, Province Wellesley, and Malacca).

(d) The Municipal (Amendment) Ordinance (No. 37 of 1955) (Clearance of Areas).
This list is comprehensive but there are some variations in detail in certain of the States and Settlements (e.g. in the case of the former non-Federated States, where some former laws continue to apply) and some minor amendments have been made to the Housing Trust Ordinance since the enactment in 1950.

POWERS TO PREPARE PLANS

This legislation provides statutory powers for the preparation, approval, and administration of town plans by the local planning authorities.

CONTENTS OF A PLAN

The contents of the plan, referred to as a "general town plan" or "draft plan", may show or make provision for communications, including streets and railways and possibly an airport (in Kuala Lumpur and Ipoh for example, this is within the area of the planning authority — unfortunately so in Kuala Lumpur, where the aerodrome occupies a large amount of valuable land close to the town centre), use and density zoning, reserves for Government purposes, parks, recreation grounds and other open spaces, building lines and regular lines for street improvements.

PROCEDURE FOR EXHIBITION OF PLANS AND APPROVAL OF APPLICATIONS FOR DEVELOPMENT.

These provisions are shown in one or more "draft" plans, which are open to public inspection for a period of three months. The plans are subject to objections for that period and, when any objections have been met and reconciled, the plan becomes an approved plan by signature of the competent authority, i.e. the Ruler-in-Council in the States and the Resident Commissioner in the Settlements.

No amendments to the approved plan may be made without public notification, and any amendments made are also open to objections, which are dealt with in a manner similar to the approved plan.

There is, however, no legal requirement that resolution to prepare a "general town plan" or "draft plan" must be gazetted or advertised by the local authority. It is the usual practice in the Federation to publish notice that the authority has authorised the preparation of a "general town plan" under the powers conferred by Section 135, Part IX, Cap. 137, in order that the public may be informed of planning control to be exercised over the area for which it has been appointed, or for any part thereof.

Thereafter the authority has power to prepare one or more plans making provision for the various sections of the general, or draft, whole plan (Section 136) and, where land is "in process of development" (Section 143), to prepare local layouts for that local development. Land is deemed to be "in the process of development when a plan for any building on it has been submitted... or any application for sub-division of it has been made..." (Section 143) and the authority may then refuse approval of plans submitted for development of such areas "in respect
of which the preparation of a draft plan or layout has been authorised...” without assigning a reason for refusal (Section 145).

APPROVED AND DRAFT PLANS

Plans have been prepared and legally approved for some of the larger towns in the Federation and draft plans have been or are being prepared for other towns, to which all applications for development must conform. In Kuala Lumpur, for example, the legally approved plan was gazetted in 1939, and many advisory development schemes and layouts for parts of the town have been designed to keep pace with the growth of the Capital and the demands of housing, industry, commercial building and other land uses.

SURVEY BEFORE PLAN

Before preparing any town or country planning scheme it is necessary for a careful detailed survey to be made of the area in its relation to the town and the region in which it lies.

Natural features, including lines of rivers, flood areas (of particular importance in Malaya), and general topography are shown on survey maps, and close study given to existing pattern of land use, mining, agriculture and forestry, water supply, housing and education requirements, transport and traffic conditions, parks and open spaces, population trends, income groups, vital statistics, and the many other items it is necessary to analyse before attempting a solution of the planning problem. In the Federation, due to the comparatively large number of small subdivided pieces of land of odd shapes and sizes, an examination must also be made of existing subdivision and ownership in order that the plan does not adversely affect future private development, and can be carried out without undue and unfair re-distribution of land (see later section headed “Access to land” and reference to the Lex Adickes).

ZONING: USE AND DENSITY ZONING

Control of the use of buildings in the form of character, or use, zoning is an important part of a town planning scheme. The proper segregation of uses, so that the amenities of residential areas, parks and open spaces, and civic buildings are not injured requires careful study, since shopping and industry, for example, merit equal consideration in the plan.

The use of land is thus shown and defined in the various zones, and all land is included, in order that the whole may be developed in a balanced and co-ordinated fashion. A use zoning schedule is normally included as a legal instrument in the plan and changes of zoning must be publicly notified.

Density zoning as interpreted in Malaya relates generally to the number of houses permitted to be built to the acre in residential areas.

This normally varies from one house (of no specified size) to three to six houses in “open residential” zones.

In recent years economic conditions have tended towards reduction in the comparatively generous standards favoured before the 1939—1945 War in these zones and a measure of relaxation, particularly in the one house to the acre sectors, has been accepted by most planning authorities in the larger towns. Postwar years have also seen introduction of blocks of two, three, and four storied flats, for which there has proved to be a demand from those who prefer flat life and who do not wish to maintain a costly compound and garden. In Kuala Lumpur a provisional ratio of three flats to one house has been accepted by the Municipality for present day practice.

In terrace house and shop house areas the traditional size of lot (20’ x 100’ depth) results in a density of some 15 to 18 houses to the acre, depending upon the width of adjoining roads.

COMPENSATION

Compensation is payable for land taken for a public purpose with the exception of land necessary for a street not exceeding 66’ in width (Section 147, Cap. 137).

No compensation is payable on account of any zoning shown in the plan (Section 148).

Powers are given for control of elevations, and height of buildings is governed under building by-laws. Generally, height is related to street width.
ACCESS TO LAND

Proper legal access must be available to all developed land. By law, access to two or more houses must be by means of a road, the width of reserve for which is defined and varies according to the length of the road. In a housing scheme, for example, in the case of back land separated from an existing or future road by land held in different ownership, it would be necessary for the owners to agree to enter into a scheme for pooling and redistribution so that each individual piece of land enjoyed legal access. This is often a matter of some difficulty, and a sensible and equitable scheme of redistribution may be rendered impossible by the refusal of even one owner to take part.

The system of pooling and redistribution followed in Malaya is based on that known as the Lex Adickes, which was introduced in Germany at the beginning of this century. A description and illustration of a simple case of the Federation method is at Appendix "A" to this paper.

TITLE TO LAND

Under the Land Code (Cap. 138) districts are divided into town and village land and country land, and it does not necessarily follow that all land in a town is "town land". (A case in point is Kuala Lumpur where, within the Municipal limits of 22,000 acres, there is in total approximately 10,000 acres of country land).

Country land, although it may be within the area of a town plan, usually carries with it conditions which require the cultivation of a percentage of the ground for agriculture. In order that the whole of the area could be available for building it would be necessary in such instance to request removal of cultivation conditions and this would require approval of the Government, whose decision is final. Should agreement be given to removal of cultivation conditions, Government might at the same time impose an additional premium, taking into account the change of use for urban development.

ROADS AND ROAD RESERVES, BUILDING LINE, AND REGULAR LINE OF STREET

Much confusion exists in the public mind as to what is meant by the width of a road, the width of the reserve for a road, building line, and regular line of street.

The planning authority has power, with the sanction of Government, to declare a line on each side of a public street within which no building may be constructed after such line has in fact been publicly declared. Furthermore, where a regular line of street so declared falls within the curtilage of existing buildings then, when such buildings for any reason come to be rebuilt, new construction must follow the declared regular line of street. An example of this can be seen in Batu Road, Kuala Lumpur, where recent buildings have been erected following the regular line, and older structures remain projecting beyond the regular line. To achieve the designed line the only alternative to the owners rebuilding, or the building being certified as unsafe and is knocked down, or falls down, is for the local authority to purchase the property.

The authority may fix a line on each side of any street, termed a "building line". In residential areas this line is normally a minimum of 20' from the street boundary or not less than 40' from the road centre and, in zones in which shop houses, factories, or commercial buildings are permitted the building line is usually coincident with the line of street (again, for example, in Batu Road or the shop-house areas in Seremban, Ipoh, and elsewhere in Malaya).

In residential areas the carriage-way probably would not be more than 14' — 16' wide, but the road reserve would likely be 30' — 40' in width to include verges, drains, etc., and possibly a footpath in addition to the actual carriage-way.

DEVELOPMENT BY GOVERNMENT AND SERVICE DEPARTMENTS

The provisions of the law are not binding upon Government or its departments, nor do they apply to building by the Services. This does not mean, of course, that it is not desirable for
Government building to comply so far as possible with the town planning requirements, and the Federal Town Planner has advised that any plans for Government and Services development should be submitted to the planning authorities.

The general principle which the Courts in England have adopted in dealing with these matters is that it may reasonably be expected the Crown and its Government Departments will show as much regard for the public welfare and convenience as any Municipal body or other subordinate authority. This principle is, of course, sound and it is gratifying to record that the Army authorities in Malaya in particular have demonstrated its soundness by their acceptance and practice. The same can hardly be said of the activities by the Royal Air Force in development along the main approach road to the Kuala Lumpur Airport where it passes through the Royal Air Force cantonment—the haphazard siting of buildings without reference to the local authority has made it virtually impossible to design a proper alignment for this important road.

COMMENT AND CONCLUSION

It will be seen that there exists a formidable mass of law dealing with town planning in Malaya although not all, unfortunately, has application to a particular area. This fact, indeed, poses one of the major difficulties for the town planner, when he is called upon for advice in one part only to find that the law differs in some detail from other parts of the Federation.

One of the most desirable improvements on the present system calls for codifying all existing law in one comprehensive document, which should be acceptable to the entire country. Such an enactment would include those parts of the building by-laws which are factors primarily affecting planning, as for example space about buildings and proportion of site coverage permitted, and those sections of all other law which are properly matters of planning concern.

It might also be argued that local planning authorities should be compelled to prepare and publish a development plan within a stated time from an appointed day, the plan being subject to review say every five years similar to the law in force in the United Kingdom. This measure would, of course, necessitate a great increase in qualified technical assistance being available, which raises problems outside the scope of this paper.

Revision of the building by-laws, particularly those controlling the traditional Eastern 'shop-house' to produce a structure less liable to abuse of living by reduction of depth and area of lot covered by building, introduction of a standard for density zoning in residential areas based on the number of persons per acre of land used, a system of plot ratios for buildings in commercial areas, and stronger measures of control to ensure that mined land is returned after recovery in a state fit for some useful purpose are other points for consideration in formulating improvements to present day legislation.

The vexed question of compensation to be paid for land compulsorily acquired for a public purpose, what exactly is defined by the expression 'public purpose', and the related and perhaps even more controversial question of fixing land values are other important issues which come to mind in an examination and assessment of the situation in the Federation today. Some significant progress has recently been made in Singapore in these vital particulars affecting planning and land use, although the proposals suffered a stormy passage before becoming law—progress which has made possible publication of the Master Plan for Singapore and brought into some clearer measure of relief the prospect of its practical realization with the co-operation of the people in the fullness of time.

Finally, to return to the definition given at the beginning of this paper—town and country planning has been aptly described as the best use of the land in the interests of the community, and the town planner and the local planning authorities in Malaya are all striving towards that end—the greater good for the greater number.
APPENDIX 'A'

Redistribution Schemes

Many landowners desiring to build or subdivide are frequently hindered by the awkward shape and unsuitable dimensions of their land. Adjoining owners find themselves in the same difficulty.

These lands moreover frequently lack proper means of access from public roads as well as convenient facilities for drainage, sanitation, etc.

Where such lands are subdivided and built upon before redistribution, they ultimately lead to losses by landowners and necessitate, sooner or later, Town Improvement Schemes at excessive cost to the State and public.

The object of a Redistribution Scheme is to substitute for the existing titles convenient building lots possessing permanent access by roads and, where necessary, render drainage and sanitation possible in conformity with a planning scheme forming part of the General Town Plan.

The carrying out of a systematic and equitable rearrangement of ownerships and boundaries is executed under redistribution plans as follows:

Plan 'A'. Showing the existing lands (or titles) of the different owners within the Scheme by different colours, together with existing roads (if any) drains, buildings, etc.

Plan 'B'. Showing the new lots (in corresponding colours) proposed to be allotted to the owners and chargées and boundaries thereof together with reserves for roads, lanes, etc.

(As shown on plate at commencement of article).

The Redistribution is arrived at by a mathematical procedure as follows:—

(I) The total area of the land within the Scheme (or "Unit") and the areas of each ownership (or title) are calculated from Revenue Survey data.

(II) The areas and percentage of reserves for roads, lanes, etc., are also calculated.

(III) The "Building Area" (i.e. lands to be allocated to the different owners) is determined by deducting (II) from (I).

(IV) Each owner receives in the new lots his proper share or percentage of the "Building Area" calculated in proportion to the area of his original title.

(V) Where any land abuts an existing public road an addition is made to the area of the original title of the owner before the new lots are allocated to him under the Scheme for the purpose of ensuring an equitable redistribution.

(VI) The new area or lots allocated to each owner fall, as far as possible, within the boundary of the original title. New titles are issued accordingly.

(VII) Charges (or other encumbrances) are transferred from the old to the new title according as the chargee desires.

The Redistribution therefore results in each land owner contributing a proportionate share of the reserves for roads, lanes, etc., necessary to subdivide and develop the lands within the "Unit".

In the case of any road more than 66 feet wide, the excess width is, with the consent of the Government, paid for by the authority.

Government land included in any redistribution is treated the same as private lands (i.e. Government and private lands each contribute their proportionate share for reserves for roads, lanes, etc.). There is no "free gift of land" by Government under the Scheme.
These layouts are explained in Appendix 'A' page 7.
PERPUSTAKAAN NEGARA MALAYSIA