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Hugo Priemus

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PRACTICE FORUM

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# Public–Private Partnerships for Spatio-economic Investments: A Changing Spatial Planning Approach in the Netherlands

HUGO PRIEMUS

## Introduction

The Netherlands has a longstanding spatial planning tradition in which the national government plays a central part. Faludi & van der Valk have described the Dutch approach in their review *Rule and Order: Dutch Doctrine in the Twentieth Century* (Faludi & van der Valk, 1995). From their overview it transpires that, once in about every 10 years, the Dutch government publishes a strategic document on spatial planning and then seeks to encourage the provinces to follow the course they have set and incorporate it in their district plans; the local authorities can in their turn work out state policy further in their land-use plans; these are binding on the citizen.

In the last few years considerable criticism has been levelled at this typically Dutch approach (particularly by the Wetenschappelijke Raad voor het Regeringsbeleid (WRR), 1998). The approach would seem to be incapable of bringing about sufficient differentiation in projects in which the state ought to take the lead (such as the connection of the Netherlands to the European high-speed rail network), projects in which the province must be the initiator (such as the design of provincial landscapes and supra-regional business parks) and projects which may fall under the direction of

the local authority. It is stressed that spatial planning must be oriented more towards implementation and development, and be less restrictive and administrative in character. Particularly since the 1990s, more emphasis has been put on improved interaction between spatial planning and the strengthening of the economic structure. In addition to spatial planning and conceptualisation the public authorities are trying to position the financing of spatial plans more centrally.

In the Netherlands, spatial planning is increasingly approached from a developmental and entrepreneurial perspective. In addition to the conceptual quality of spatial planning, Dutch politicians increasingly emphasise the pragmatic Anglo-Saxon approach which for a long time the Netherlands has sadly missed. More room is sought for private initiatives and private finance. All this movement accounts for the hectic development of various forms of public–private partnerships in spatial investments. In this article an overview is given of current opinions in this area and the rules of the game which have been formulated for the Dutch government by the Knowledge Centre PPS that forms part of the Ministry of Finance (third section). In the fourth section we review

*Hugo Priemus, OTB Research Institute for Housing, Urban and Mobility Studies, Delft University of Technology, Thijsseweg 11, 2629 JA Delft, The Netherlands. Email: priemus@otb.tudelft.nl*

these comments critically and put forward some amendments and perspectives. In this review we sketch the perspective of more integrated area development. We formulate some conclusions in the fifth section. First we sketch a brief history of public-private partnerships in Dutch spatial investments.

### **A Brief History of Public-Private Partnership in Dutch Spatial Investments**

Public-private partnerships in the Netherlands are not new. Van der Boor (1991) describes early examples of such partnerships in the 1960s: Exploitiemaatschappij Scheveningen (EMS) in The Hague and Hoog Catharijne in Utrecht (Bredero). Until the 1980s the government remained the initiator of spatial investments in infrastructure, investments in ecological areas and valuable landscapes, and brownfield developments. Infrastructure was perceived to be a purely public investment. Housing construction in the social rental sector was heavily subsidised, demanding a strong involvement from national and local government.

Between 1978 and 1982 the Netherlands found itself in the most serious post-war economic crisis to date. Mortgage interest rose to 12%, unemployment increased rapidly and the economy no longer grew, but diminished. Government finance became unbalanced and the endeavours to achieve public budget cuts became intense. The European Monetary Union came into the frame and the Maastricht convergence criteria were formulated. As a result pressure increased even further to reduce subsidies and where possible to put in private capital instead of public money.

Public-private partnerships came here from the USA and the UK as the formula to involve more private capital in spatial investments (Spaans, 2000). The implications were not immediately clear to those concerned. Initially, public projects were often developed for which private financing was later sought. The general complaint from private market parties was that they were involved in projects too late. Their insights into the market and their risk perceptions were insufficiently used. Experiences with a number of privately financed toll tunnels showed that these were too expensive com-

pared with classic public financed infrastructure.

Dutch national government has recently formulated a new framework for private partnerships in the context of the policy recently put forward aimed at strengthening the national economy by spatial investments to be supported by public funds. Various ambitious investment projects have been formulated, such as the connection of the Netherlands with the European network of high-speed trains (to the south and to the east), the freight rail line between Rotterdam and the Ruhr Area (*Be-tuwelijn*), the increase in capacity of the networks of motorways and railways, the light-rail projects for public transport in urban regions, urban renewal in the form of restructuring the housing stock and developing commercial real-estate, and investment in green structures.

The Netherlands government set up the Economic Strengthening Fund in the 1990s to support such investments with public money, although it has become clear that there is insufficient public money to finance all the investment claims. This has stimulated the development of public-private partnerships, in which the availability of public money generates much larger private investment capital. In general terms the conditions for a fruitful public-private partnership are not optimal. There is still a lack of experience. Recently, the Knowledge Centre PPS (public-private partnerships) was established to formulate the rules of play and to gather examples of best practice. This Knowledge Centre PPS has published some reports in which the rules of play are formulated (Knowledge Centre PPS, 1999). The Knowledge Centre PPS gives general advice about the process architecture which ought to be followed in public-private partnerships. The centre emphasises that the government authorities involved must follow a consistent policy and must make clear at an early stage what requirements investment projects must meet. In the next section we give an overview of the recommendations made by the Knowledge Centre.

### **The Approach Proposed by the Knowledge Centre PPS**

In presenting the ideas and recommendations of

the Knowledge Centre PPS, we draw heavily on its publication *Meer waarde door samenwerken (Added Value through Working Together)* (Knowledge Centre PPS, 1999). According to the Knowledge Centre PPS (1999, p. 3), the government has to incorporate three elements if it is to bring about a successful public-private partnership:

- adequate process management;
- an adequate set of financial instruments;
- a government tailored to public-private partnership.

In the following subsections we elaborate on these elements, following the approach of the Knowledge Centre PPS.

#### *Process Management*

Good process management must finally lead to the bringing together and setting up of successful public-private partnership arrangements. Process management consists of a set of five activities:

- process architecture design; the establishment of the rules of the game in bringing about a consortium;
- setting boundaries to the consortium; boundaries which set down the conditions and restrictions in realising public-private partnership agreements;
- risk management by the government that must ensure the avoidance of negative surprises;
- contract management by the government that has to ensure that the government accurately lays down the agreed form of cooperation in contracts and monitors the fulfilment of those contracts;
- management of the realisation and exploitation phase; the management of public interests after the start of the realisation phase.

#### *Financial Instruments*

Public and private actors usually operate within different time horizons. Whereas the government (ideally) decides on the basis of the societal results of a project, the companies look to the time when costs will be recovered. By

going along with the private cash-flow approach and structuring the public-private partnership forms so that positive cash flows ensue soon after the start of the project, the government can—without having to make concessions to its own societal results—strengthen the involvement of the private sector. Both public and private actors ought to pay rather less attention to the investment costs and operate primarily on *life-cycle costs*. This is attractive because many innovative solutions often combine higher initial expenditure with lower maintenance costs. The government has available an arsenal of financial instruments, such as subsidies, capital participation, guarantees and the granting of rights. Through putting such instruments into force the government can raise the anticipated value of a project, limit the risks and provide a stimulus for private participation.

Eventually—once the societal cost-effectiveness of a project has been demonstrated—the government must consider between public or public-private implementation. For a rational consideration, an *ex ante* evaluation instrument is required. For this purpose the Knowledge Centre PPS has introduced two instruments as follows:

- (1) the Public-Private Comparator (PPC) enables the government to decide at an early stage whether the public-private partnership can possibly provide a gain in efficiency;
- (2) the Public Sector Comparator (PSC) enables the government to weigh up specific public-private partnership opportunities against a traditional, purely public alternative.

The instruments compare public-private partnership with the public alternative on the basis of the same assumptions. The evaluation instruments cannot be considered separately from the composition of the consortium. The choices made with respect to risk allocation and public involvement strongly determine the results of the instruments and vice versa.

#### *Government Tailored to Public-Private Partnership*

Government authorities aiming at public-

private partnership have to be aware of a number of points:

- the identification of *long-term stakeholders* in the programme phase. The government decides, together with these long-term stakeholders, the programme of requirements for the area-directed development. This programme of requirements is laid down in a bidbook;
- *scope optimisation*: a division in space and time to make the feasibility of the project as high as possible;
- *value capturing*: agreements made between public and private actors so that surplus profits remain available for increasing the quality of the project and for the realisation of unprofitable parts of the project;
- *promotion of competition*: the selection of private actors to carry out the project must be based on competition on the basis of the bidbook; concessions are rendered to the applicant who can add the most value to the project, or requires the lowest costs, given the programme of requirements.

If more government authorities are involved (other local authorities, a province, one or more ministries), it is of crucial importance that they all follow the same line and carry out a consistent policy. Public-public cooperation is perceived as a necessary condition for a successful public-private partnership (Bussink, 1998).

Where the government participates with one or more private parties in a joint venture, the government must thoroughly understand the art of combining one-sided and multi-sided steering (Heuvelhof, 1993). Also, for the outside world the government must ensure that the classic public functions of government, such as the establishment of a zoning plan or the granting of a building licence, are properly separated from the function of co-entrepreneur.

The open process of putting out to tender leads to the selection of the consortium that is able to achieve the best price-quality relationship. Innovative contracting-out procedures (Build-Operate-Transfer; Design-Build-Operate-Transfer) lead increasingly often to long-term relationships established be-

tween the construction and the operation. Distinguishing between the design, construction and operation phases is essential. In every phase the public-private partnership can acquire specific form and content.

### Review of the Knowledge Centre PPS Approach

The idea of a development process based on negotiations between public and private actors is popular in countries such as the USA and the UK (Healey, 1992; Healey *et al.*, 1995), and is also gaining ground in the Netherlands. In practice, private development companies are more and more active in territory-related development. They know, or intuitively feel where ambitious investment projects are likely to be started, so they often acquire *strategically situated land plots*. They can subsequently appeal to the *self-realisation clause* in the Dutch Compulsory Purchase Act; whoever is prepared and able to realise the desired purpose cannot be subjected to compulsory purchase. Thus, whoever owns the land has a monopoly position on the building market on the location concerned (Centraal Plan Bureau (CPB), 1999). Development companies often sell recently acquired plots back to the local authority in exchange for a *building claim* which lays down the monopoly position of the developer (including the operating construction company that forms part of the same concern). The land positions held by the private developers mean that in practice usually little or nothing is to be observed of the competition proclaimed by the Knowledge Centre PPS. When the land is owned by the local authorities the land could be put up for auction, but this could disturb the planning system (Healey *et al.*, 1995, p. 227).

There is a real chance that, in a particular area, perhaps on the scale of an urbanised region, private development companies take on the commercially attractive projects, invariably leaving the local authorities to deal with the projects which require a subsidy. Public authorities are developing green areas, traffic infrastructure and non-profit amenities, while private actors develop owner-occupied houses, shopping centres and offices.

This situation leads us to consider the *optimisation of scope*: the so-called *project envelope*, containing not merely one project in a planning unit, but both the remunerative and the loss-making projects in a particular area.

Possibilities which come to mind include a combination of infrastructure development and the development of plots for which the new infrastructure can improve accessibility. Nyfer (1998) argues that new infrastructure can be completely paid for from the increase in the value of the land rendered accessible by the infrastructure. This is theoretically possible if the owners of the infrastructure and the land parcels are the same, or are prepared to work together. An alternative possibility is for statutory regulations to facilitate the creaming off of the increase in value of the favoured parcels, thereby enabling this profit to be made available for the financing of the infrastructure. All this presumes that it is possible to estimate and quantify the increase in value beforehand. In practice, it seems only feasible to finance infrastructure for a part, by reinvesting the increase in value of the plots which are made more accessible. Thinking beforehand about the optimal system limits is certainly useful; for example, developing the infrastructure lines and junctions around stations as one project and not as strictly separate tasks would seem to be sensible.

Another point of concern is the development of green structures. For green purposes (nature, agriculture), land value is usually a few euros per square metre; for red purposes (such as housing, shops and offices) it is a matter of several hundreds of euros per square metre. The transformation of green functions into red functions is always tempting from commercial considerations. The increase in land values is dramatic and the increase in development profits considerable. Increasingly often in the Netherlands, a plea is made for red-for-green constructions, in which green investments which would in themselves be unprofitable are wholly or partly paid for from the increase in value of real-estate, from a levy on new real-estate (as compensation for the loss of open space), or from the increase in value of parcels in the green area (or outside it) where the purpose was changed from green to red.

There is always a danger that the increase in value of a red area cannot be collected (free riders), or that the relevant statutory instrument falls short of what is required (profit tax, land exploitation agreement), or that the green investments are so enveloped by the red destinations that the envisaged ecological and/or landscape goal is not achieved.

New opportunities for public-private partnerships arise in financing, developing and constructing motorways. The fundamental principles are to be found in the National Traffic and Transport Plan (Ministerie van Verkeer en Waterstaat (Ministry of Transport, Public Works and Water Management), 2000): making the best use of what is already available, imposing kilometre levies, and new construction. First, efforts are made to make better use of the existing infrastructure. Kilometre levy systems are of service here. Only in the last resort would the capacity of the infrastructure be extended. Until recently, infrastructure investment was considered to be in the public domain; with the exception of toll roads, driving on the infrastructure was not bound to a price. Investment in the motorway network was a 100% public investment. This assumption will now have to undergo some change through the introduction of new, advanced registration and payment techniques which simplify the problems of collecting levies. Until recently, the Dutch government was considering cordon levies on the main roads around the big cities. Now, official policy is to introduce kilometre levies on all roads, with the intention of levelling out travel peaks and combating congestion. Private parties think in terms of toll roads and pay lanes for which new infrastructure is financed from payments made by road users. The various points of departure have in common the fact that motorways are becoming sources of income, making private financing possible and causing substantial rises in land prices in the vicinity of the traffic infrastructure.

Public and private authorities can approach the development of a project envelope within an urban region by drawing up agreements on *benefit sharing* and *risk sharing*. Above a certain reasonable profit level, surpluses in the area can be ploughed back (value capturing) for

the realisation of unprofitable projects and to raise the quality of the area. Such arrangements are preferably made on a voluntary basis. If free riders do indeed threaten to appear on the scene, it must be possible to lodge an appeal by means of a statutory regulation for the retrieval of costs.

An *exploitation agreement* is preferably drawn up through negotiation between a local authority and a private development company. If a private party is unwilling to cooperate and behaves as a free rider, a reasonable retrieval of costs can be exacted through a *land exploitation levy*, or a *land exploitation licence*. On this point, Dutch legislation falls far short of what is required. This defect has now been acknowledged by the Dutch government, but only with respect to costs retrieval within municipal borders (Ministerie van Volkshuisvesting, Ruimtelijke Ordening en Milieubeheer & Ministerie van Financiën (Ministries of Housing and Finance), 2001). A statutory regulation for the retrieval of land costs on a regional scale is not envisaged.

In practice, we often detect large defects with respect to public-public cooperation: the co-production of policy. As a result, a solid basis for public-private cooperation is lacking. We also observe little evidence of market forces, partly because of the nervousness felt by many local authorities towards European tendering, but mostly through the land positions of market parties whereby self-realisation excludes all competition. An alert public-private partnership, in which the public actors select their private partners in accordance with the market, demands a land policy in which land ownership can only lead to self-realisation if that can take place in a competitive manner. Through an uncoupling of land ownership from development and building rights (CPB, 1999), more advantage could be taken of creative competition (Teisman, 1997); this policy has not as yet been adopted by the national government in the Netherlands.

## Conclusions

Public-private cooperation is often the most desirable formula for realising spatio-economic

investments. In practice, there are many handicaps to an adequate public-private partnership. The first handicap is formed by defects in the co-production of policy by the public actors concerned: local authority, province, ministries. A second handicap is formed by market parties using their land position to exclude all competition. A third handicap is the lack of a statutory instrument to regulate an appropriate retrieval of costs: an instrument such as planning gain, or a land exploitation agreement, or a land exploitation levy.

Ideally a local authority, together with long-term stakeholders, formulates a programme of requirements to be laid down in a bidbook. On the basis of this a European request for tenders is organised in which applicants compete with creative plans and sharp prices. The market forces and powers of innovation and creativity operating during this process can be expected to be advantageous. The public actors must combine their public entrepreneurial role with their classic public tasks (establishment of the zoning plan, granting of a building licence) in such a way that there is clarity for third parties concerning both roles. This is usually lacking. A great deal needs to happen in practical terms before a good practical framework for public-private cooperation in the realisation of spatio-economic investments can be brought about.

Nevertheless, the role of public-private partnerships in the implementation of spatial policy is increasing in the Netherlands. Spatial planning now takes much more account of market dynamics, as illustrated by the preferences of households and businesses, and reacts better to the readiness of private actors to invest in particular projects. Private actors depend here on the creation of opportunities by public authorities in their spatial planning. Public authorities in their turn are dependent on private investors for the financing of some of their public ambitions. This point of departure is a challenge for spatio-economic planning based on a growing share of public-private partnerships. In this respect, the Netherlands can learn a good deal from experience in the USA and the UK, where there is a longer tradition of negotiating development than in the Netherlands.

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