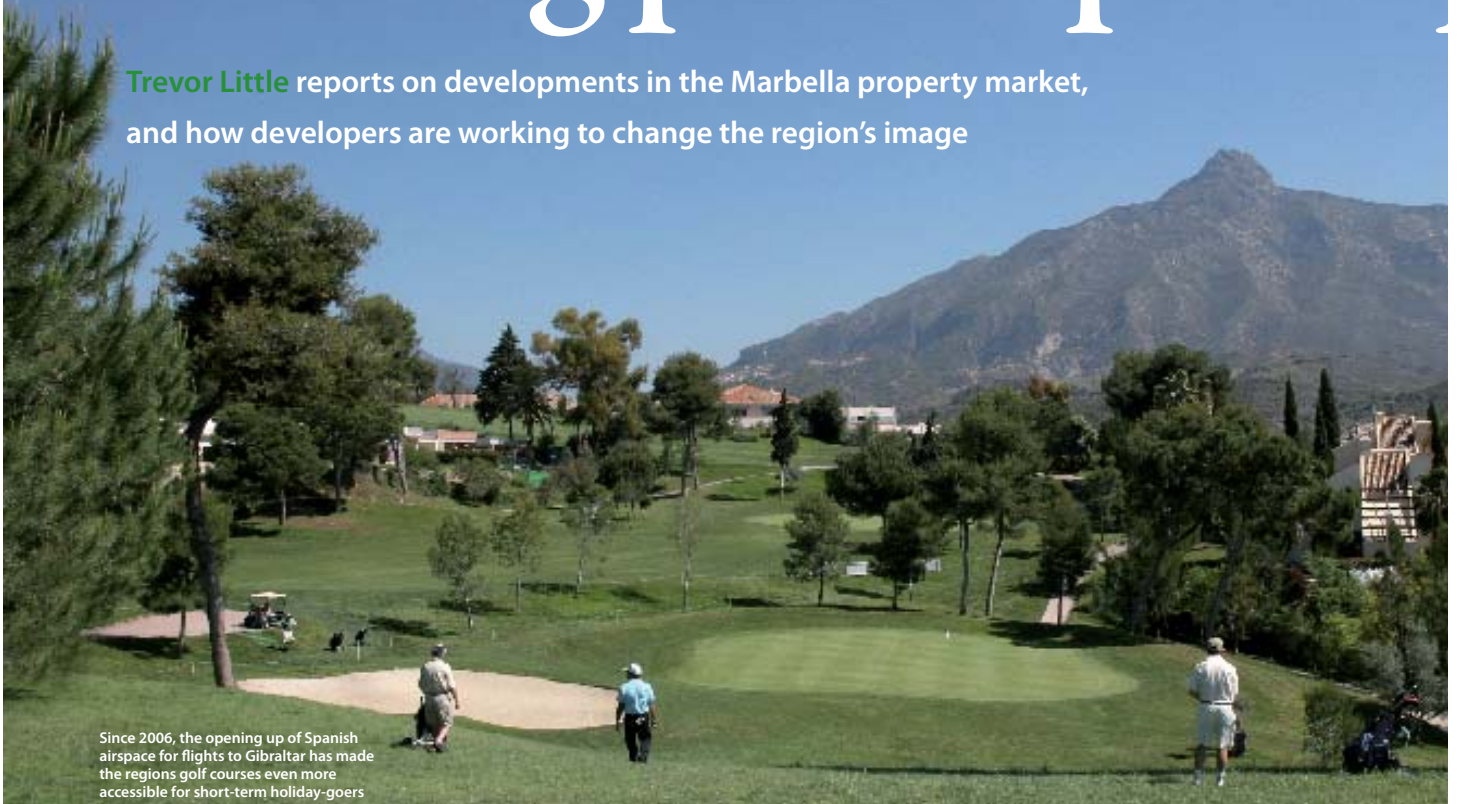


Driving public perce

Trevor Little reports on developments in the Marbella property market, and how developers are working to change the region's image



Since 2006, the opening up of Spanish airspace for flights to Gibraltar has made the region's golf courses even more accessible for short-term holiday-goers

With the public consultation period for Marbella's new Plan General de Ordenación Urbanística (PGOU) now closed, the City Hall under mayoress Angeles Munoz is looking to move the property market away from the negative image created by past press reports of scandal and corruption. Final approval is not expected until mid-to-late next year, but the focus is firmly on the future for both those who had previously purchased property in Marbella, and those now looking to market an area that suffered under the negative exposure it received.

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Debate continues over the compensation developers could be liable for

Speaking during the consultation period, Munoz said: “Marbella inherited a situation of disorder that was the norm for the last 15 years. Of all the priorities the government has set, one of the most noteworthy is our resolve to regain the trust of citizens, investors and institutions.”

The PGOU is a ten-year plan

produced by Spanish municipalities to designate land zones into categories of usage - from green belt through to urban - which requires local government approval, the Junta de Andalucía in the case of Marbella. Many of the current problems stem from the fact that mayor Jesús Gil's 1996 PGOU was never approved, and only with the approval of the 2006 PGOU will Marbella's residents and developers know where they stand.

Alberto Pacheco Corredera, sales director at Spanish developer Noriega, explains: “In recent years there has been lots of building and little land was left for green areas and social establishments. The PGOU is trying to reclaim land from the developers, but this doesn't mean the past incidents are necessarily the developers' fault. Many had the licence in place after the Town Hall manipulated the system to issue them. There are two lines going forward. The first is to agree a compensation mechanism, and sessions

are underway. This will run independently of the approval of the PGOU.”

Key to the planning is defining which of the buildings constructed during the GIL party era will be allowed to stand. While initial fears were voiced over the fate of some 30,000 properties, the number under threat has been drastically reduced. Adam Gale, MD of Costa del Sol agent Duchy Estates, comments: “All but very few of the 18,000 questionable properties will be incorporated into the 2006 PGOU and the guilty developers ordered to compensate the municipality by surrendering part of their land for parks and sporting facilities. This leaves just two hotels and 752 homes, which cannot be given reprieve as they are in strategic positions.”

However, debate continues over the compensation developers could be liable for. The owners of illegal property are expected to be compelled to give (or buy) almost two million square metres



of land in the municipality by way of compensation (with news portal Simplyspanish.com reporting the cost of this liability could hit €360 million) and many developers don't feel they should be held accountable and are appealing - refusing to compensate the Town Hall.

Until the compensation aspect of the plan is resolved, this will cause worry for many previous buyers, who could be burdened with the cost of making their property legal. Raymundo L. Nesbitt of Lawbird Legal Services, which owns marbella-lawyers.com, notes on the site that "the obligation to compensate would fall on the owners of illegal properties - the purchasers. They would have to compensate the Town Hall to legalise their property".

With regards the above, mayoress Muñoz has stated strong opposition, while the Junta de Andalucía has said it will help all the owners inside a legal

process. Mark FR Wilkins, of The Rights Group SL - TierraFirma, notes: "The mayor has shown herself to listen and react where necessary. She has already indicated that if the sanctions proposed are too harsh, the Town Hall will need to revise its approach - particularly where the inequity falls at the door of the ultimate purchaser."

Joe Lopez of Marbella-based brokers The Mortgage Group Spain SL, agrees: "In general terms everyone welcomes the new PGOU, however the key issue is how the illegal properties are to be treated. The plan was open for public comment until the 15th of October and by the deadline there had been some 8,000 objections to how the plan is proposing to deal with the illegal homes. The issue lies in that if the developers are unable or fail to honour this compensation, the responsibility falls back on the current property owner. This is unsatisfactory and unfair as property owners cannot afford to provide the compensation requested. Both the Ayuntamiento of Marbella and the Junta de Andalucía have been reported as saying this area of the plan needs to be readdressed and legal measures should be investigated."

Ultimately, Wilkins says, your view of the PGOU will be dictated by your position in the market: "Existing owners whose property is not implicated in any planning irregularity see this as an opportunity for the Town Hall to restore trust and confidence in the market and to bring in, by way of fines, finance for local projects. If you are due to complete on a purchase and the effect is to regularise the urbanisation where your 'off plan' is sited, you may be pleased - as long as you can afford to complete. However, if your property is one of those which has not had its licence resolved, concerns will continue and remedies in law sought."

What is clear is that, once in place, buyers can purchase in Marbella in the confidence that their purchases are legal and secure. As Lopez argues, buyers will be able to start "afresh from a position of confidence that will not exist any where else on any of the Costas".

Cary Johnston, media relations officer for Andalusian Dream Homes, agrees: "The previous problems have had such a high profile, that the spotlight is now way too strong for any potential dodgy dealings. Plus the fact that the new mayor is seriously in control of things seems to be having a very positive effect."

A new decree

As well as taking action to correct past mistakes, the Regional Autonomous Government of Andalucía passed Decree 218 in 2005 to protect buyers going forward. The law, which came into effect in July, identifies what information must be taken from the owner of the property and given to the potential buyer when viewing a property. All agents and brokers offering a property for sale are required to have a full set of documentation, including building permits and licences, available to buyers and inspectors before the property can be shown.

This provides peace of mind to the buyer, yet many agents and buyers do not seem fully aware of the protection it offers. Lopez notes: "The new decree is a welcome step to bring back buyer confidence. However, it has not been well publicised to the market place nor to the estate agent community. I am aware of estate agents that have not been informed of the requirements of the decree, despite it being brought into force in July."

Another response to the property scandals was the formation (in 2006) and development of the IMNO Network, which represents estate agents. The organisation commissioned a legal firm to recommend procedures and training programmes for its members to undertake. As such, in October, it announced that it was the first MLS company in

Operation Malaya

Operation Malaya was the operation carried out in Marbella, initiated to expose alleged illicit activities in the local market. During the first phase, police arrested the city's mayor and deputy mayor amid allegations of money laundering, acceptance of bribes and property development offences. Subsequent phases led to the government of Andalucía stripping the city of its jurisdiction over building projects and dissolving the town hall. Essentially, Mayor Jesús Gil's 1996 PGOU was never approved by the Regional Government, and as a result many properties were constructed on land not designated for building or set aside for public facilities. In other cases, licences were granted to buildings that didn't meet regulations or building codes. In July 2007, control over real estate development and building officially returned to Marbella Town Hall, under new Mayor, Ángeles Muñoz.



For buyers who understand the market, the new PGOU could actually offer a unique buying opportunity

The 2006 PGOU

The new PGOU predicts that Marbella's population will increase by 27.7%, to 169,719, over the next eight years. To accommodate this, it allows for 27,643 new homes, of which 10,178 will be affordable. Provision for the equivalent of 3,800 new hotel rooms, plus sports centres, conference facilities, educational establishments, and business parks also feature. It allows for six railway stations, 150km of cycle tracks, extra parking facilities, new road connections and confirmation of the €50million San Pedro underpass, already under construction. In addition Marbella's Puerto de Marina de la Bajadilla will be extended to 2,500 berths.



Andalucia to comply with Decree 218.

Commercial manager, Ally Kerr, says: "It is in our interest to distance ourselves from less professional elements in the market. We know Marbella and the Costa del Sol have not had the best of press lately as a result of a number of property scandals, which have rocked client confidence in the market. It is because of this that we welcome new customer protection measures and tighter controls."

Getting the message heard

With ongoing negotiation on the legalisation of properties, and protection in place going forward, the key for the developer is to get this message out against a backdrop of negative media exposure. Eugenio Sanchez-Ramade, managing director of Noriega UK, observes: "Some coverage suggested the picture was worse than it was and endemic across Spain. It was certainly bad for those involved, but the whole country got tarred with the same brush. In this area of Spain, Marbella is only part of the Costa Del Sol, but the whole area was viewed in the same way. So buyers see the headlines of scandal and when they get to the details of buying, they become overcautious. Demand is still there, so it is a matter of regaining trust."

Wilkins agrees: "We anticipate a gradual return of buyer confidence as a direct result of the PGOU, but buyers are increasingly well informed and may take longer over their purchase - using independent professionals to add to their security. We are seeing a number who are 'trying before they buy', making sure this is really the right long-term location for

them. This enhances the rental market for mid- to long-term rentals and will no doubt assist the buying market."

Interestingly, Johnston says visitors at a recent UK show were relatively unaware of past problems: "Image wise, it's been bad otherwise journalists wouldn't be writing stories about it. However, in terms of how the average house buyer sees it, you'd be surprised how little they are aware of the past situation. I spent three days at the recent Homebuyer exhibition in London, and conducted a survey of those thinking of buying property abroad. Only one person out of two hundred had even heard of any form of property scandal in Marbella. Those of us in the industry and in the news-obsessed media often assume knowledge on the part of the general public, which sometimes is simply not there. By far the greatest concern was what they perceived to be 'over supply' of property. Their view of the Costa del Sol was about lifestyle and nothing to do with corruption."

For buyers who understand the market, the PGOU could actually offer a unique buying opportunity. Lopez explains: "In Marbella, until the new PGOU plan is in place, the safest option still remains the purchasing of properties that were approved under the 1986 plan or earlier. But the moment the new plan has been approved, there will be many developers, who had built in the last few years but seen their developments paralysed under the current investigation, that will be desperate to sell and we may see good opportunities for the intelligent buyer."

In his October presentation, IMNO Network's Kerr argued that as

planning is more strictly controlled, Marbella is one of the safest places to buy. However, one of the key challenges is telling this to the buying public. While scandal and bad news will, rightly, grab the headlines, it can be a challenge to then explain how things are changing for the better once the damage is done.

Corredera says: "It requires effort as in terms of having to justify ourselves and explain the situation. As a company, we have always had the right processes in place, but we now have to give more background and explanation as much of the information that has gone to the public has been inaccurate or over-exaggerated. With the rural land-grab in Valencia, for example, it was reported in a way that made it seem like your Madrid property could be at risk."

In this regard, agents and developers have a role to play. Kerr feels the industry needs to lead the way in terms of how the market is perceived. In addition to factors such as self-regulation, offering increased consumer protection and selling ethically (with a recognition that people need to buy for the right reasons, like before the 'short-term investment pitch' became widespread), there is a need for agents and developers to talk of the positive moves being made in the market - to lead the image, rather than let buyers be led by past scare stories.

For further news on Spanish coastal development, see page 8.



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For further insight into this market, visit the panel discussion 'State of the Market and Prospects in Spain', chaired by Bernie Costello, on Tuesday 4th December at OPP Live.

