

development management and localism – zeitgeist or lasting change?

Development management may have received little attention in assessments of the Government's proposed changes to the planning system, but it represents an example of positive planning and will be at centre of managing discussions between communities and developers, say **Nick Croft and **Adam Sheppard****

The concept of development management, as opposed to development control, emerged alongside that of spatial planning. With spatial planning currently tied to a post in front of a Government firing squad, what future is there for development management? Is this also destined for execution? Or, like spatial planning, does the fundamental approach behind the politicised term still have relevance in the 'new planning' of localism? Development management has received little mention in academic and professional reflections on the Government's proposed changes to the planning system and has historically been a somewhat silent partner within the spatial planning approach, but it perhaps represents an approach that most coherently supports the emerging system.

The Government's ambitious agenda of change and reform will have major implications upon decision-making, the systems of government and governance, and the process of decision-making.¹ The Localism Bill's proposals have been presented as the most far-reaching reforms since the birth of

the modern planning system in 1947, but they are likely to be as challenging as they are potentially exciting.²

The signals from the Coalition Government's planning revolution are hard to miss. The current planning system is simply and crudely seen as a barrier to growth and a bureaucratic anathema to all held dear by the current Government. Yet many planners currently facing this barrage of criticism are already delivering and, importantly, facilitating a viable system of development management which engages communities and supports new development and growth. With this in mind, is the new system really a 'radical departure from the past'?³

In some respects the proposals are, of course, noteworthy, but in reality the *regulatory* processes continue on their path of (in some cases questionable) evolution. It is significant that over the last 60 years of change the regulatory framework has evolved rather than been comprehensively redesigned, with the fundamental works of the decision-making process remaining broadly

unchanged from those introduced in 1947. The changes being suggested in the Localism Bill that impact upon how we make decisions still essentially use existing tools and adaptations of extant processes, including permitted development (PD) rights and Development Orders. The development management approach is already advanced in the effective utilisation of these tools.

The Coalition Government's vision for planning envisages an elevated role for communities in determining what happens in their neighbourhood. In terms of planning implementation (as opposed to policy) this includes the delivery of small-scale developments; instigating referendums on local issues; running services; and the designation of Neighbourhood Development Orders.⁴ An evaluation of the steps already taken by some pioneering local authorities (see Boxes 1 and 2) demonstrates what planning and planners can achieve, and what can be delivered, within a mutually supportive and constructive environment – and suggests that, given a little longer, the direction of travel previously being taken by the planning system would have borne fruit without the need for the current questionable changes now being forced through.

Pretty and Ward note that many governments have recognised the need for the willing participation of local people if environmental assets are to be effectively protected,⁵ and it would seem that the Conservative Party reached a similar conclusion in its *Open Source Planning Policy Green Paper*: 'communities should be given the greatest possible opportunity to have their say and the greatest possible degree of local control [to overcome] tensions between development and conservation'.⁶ The publication of the Localism Bill confirmed the Government's intent to place communities at the heart of England's planning system.

The Government suggests that through localism there will be a transferral from top-down policy and target-driven governance to community-led,

bottom-up decision-making. It therefore seems contradictory for the Government to propose allowing a permitted change from business use to residential; the risk is that we will find ourselves in a perverse situation whereby mechanisms are sought at the local level (for example Article 4 Directions) to ensure that a nationally instigated measure does not cause chaos locally. Surely in a localist approach this is the wrong way around? Putting aside the extent to which community planning will prove a reality, when combined with heightened public awareness and desire to be involved in the decisions that affect their environment it seems certain that the planning system will, more than ever, be the megaphone through which people's concerns are voiced.

A recent survey of local government practitioners sought to gauge opinion on the future role for local government in planning.⁷ Notwithstanding the inherent uncertainty being faced, it found that where there are 'tensions over what different sectors of the community want for [a] place... a key role for local government may well be refereeing, brokering and advising upon the development of neighbourhood plans'. It also found that, in preparing neighbourhood plans, communities are likely to require specialist support and skills, with planners in local government being ideally placed to provide advice on the planning process and ensure cross-sector links with other local agendas. The Cornwall LDO project (see Box 2) illustrates that it is not just in preparing plans that professional support will be required, but crucially also in translating their application into practice.

Many have acknowledged how complex and divergent the new system could become and how few resources exist to enable it to be delivered. Rydin⁸ considers that communities are likely to 'require considerable support' if they are to effectively use the localism powers that seem to be heading their way, and, with the untimely cut to

Box 1

Case Study 1: Wycombe District Council LDO

Local Development Orders (LDOs) allow for discretionary local variation in permitted development rights. Wycombe District Council prepared an LDO (in July 2010) to encourage economic regeneration in an historic area of High Wycombe that was experiencing high shop vacancy rates. The LDO, which covers a 0.7 hectare area of the town's historic centre, allows for material changes of use of ground-floor premises without requiring planning permission. The Order, which has a three-year life span, allows businesses to change between A1-5, C1, D1 and D2 uses. The intention is to provide a more flexible approach within the defined area, allowing the market to lead on the future proportion and distribution of occupancy types. The LDO has received strong support from elected members.

Although, 12 months on, all changes in use to date have involved A1 uses, which would have been permitted anyway, it sends a strong message to businesses about the Council's willingness to adopt a proactive approach to using tools to increase flexibility where appropriate. There are clear parallels between this approach and the proposed NDOs, which are envisaged to be deployed in a similar manner.

Planning Aid funding, it is likely that this task will fall to local authority planners. All of this has an associated cost implication, in terms of both time and resources, and there remains an unanswered paradox between the stated ambitions of the Coalition Government and the 'swingeing' spending cuts being passed onto local government and third-sector organisations, compromising their ability to support the new agenda.⁹

Development management – the land of the lost?

It is significant that when the previous Labour Government introduced spatial planning into England and Wales in 2004, it also sought a culture change in the way that planning delivered its 'product'. It was noted that the development control function was too reactive, based on regulatory action, and did not actively seek to engage with those outside of the 'silo'. This was an unfair criticism in some cases, but it is one that the Coalition Government has levelled at planners and the system in which they work.

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The quiet introduction of development management, compared with the fanfare received by the radical overhaul of the policy arm of planning, was largely given to the Planning Advisory Service (PAS) to champion. The evolution rather than revolution sought a transition from *controlling* development to *managing* it: initially seen as a matter of embracing 'soft' (culture) change rather than instigating 'hard' (regulatory) measures.

It was not until near the end of the administration that the previous Labour Government felt it necessary to introduce a formal Planning Policy Statement (PPS) to instigate the necessary culture change. Leaving aside the questionable role of a PPS in providing largely procedural advice, the publication of the associated consultation document¹⁰ appeared to be tacit recognition that the implementation aspect of spatial planning had drifted for too long

Box 2 Case Study 2: Cornwall LDO Project

As well as simply changing permitted development rights in a given area, an LDO can also be used as a tool to support community engagement and empowerment. Using the existing LDO mechanism, Cornwall Council led a pilot scheme with Feock Parish Council to enable the parish to direct minor development within a defined geographical ward (Carnon Downs). The LDO extends residential permitted development rights for proposals that comply with the requirements of a published design guide, produced in partnership by the two councils and the local community.

The LDO came into effect in June 2011, with officers initially supporting the Parish committee in determining proposals. In the longer term it is envisaged that officer time will be freed up to work on other planning matters. This approach has had the added benefits of increasing transparency in decision-making through real community involvement in the planning process; increasing community confidence to meaningfully engage in pre-application discussions based on their design guide; and forging excellent working relationships between the councils, with all parties learning from each other.

without those charged with operationalising it being clear about what the concept entailed and about delivering the outcome intended.

Many practitioners would argue that development management (as set out in Box 3) actually just represents best practice in development-associated regulatory control activities. This is not, however, to devalue the term as its promotion represented an intention to move from development control 'best practice' to a universal standard, where such an approach is mainstreamed and accepted as standard practice.

Reflecting upon the elements that could be considered to define the development management approach, it is not difficult to see parallels with elements of the localism agenda. Formulated as part of a carefully planned strategic movement, it was beginning to provide positive results: an important aspect being that it explicitly looks beyond processes and procedures and provides a focus that includes relationships and, significantly, culture.

Briscoe¹¹ notes that the massive changes in the way that planning operates will require a 'big shift of culture' – a view reiterated by Tewdwr-Jones,¹² who notes that if the new approach is to succeed it will require 'individuals [to embrace] the spirit and

purpose of change'. Cheesbrough¹³ similarly notes that the 'devolution of decision-making [including on] household applications [will require] new ways of working', and that local planning authorities will have to 'fundamentally change their approach... [not just because of localism but] because financial constraints will also demand it'.

While the scale of change is indeed significant in some respects, it can be argued that the 'new' direction is on a course already being steered; albeit the speed of travel has suddenly increased dramatically. It seems ironic that only now, with the ground moving beneath our feet, is development management best practice being highlighted. Too late the future?

Development management as a viable limb of localism

Within the development management approach there is much emphasis upon pursuing outcomes rather than chasing outputs. Put simply, this means

Box 3

The traits of a development management approach

- Pre-application discussions – communication, consultation, negotiation, advice to achieve an improved outcomes and timeliness in decision-making.
- Proactive dialogue with landowners, agents, developers, community groups, and parish/town councils to provide the foundations for partnership and constructive relationships.
- Using a project management approach – Planning Performance Agreements (PPA) – to ensure effective and participative decision-making.
- Using tools and mechanisms to create a proportionate system of control and management (Development Orders, Article 4 Directions, guidance and support).
- Undertaking the regulatory functions of registering, consulting, determining and issuing planning permission/refusals, with a focus upon delivery and quality, not process and targets.
- Wider liaison and partnership working with parties to achieve holistic solutions.
- Engagement with and empowerment of communities.
- Monitoring implementation to continually develop best practice and ensure delivery of desired outcomes.
- Enforcement, to reinforce the legitimacy of the system and ensure good practice.

placing greater emphasis on maximising benefits from a development rather than focusing largely on the time taken to reach a decision. Community participation in the decision-making process, and a sense of genuine investment in the resultant development, are important elements of this. However, in the face of tightening local authority resources and constraining regulation, is it possible to deliver truly neighbourhood decision-making?

If some of the aims of the localism approach are to be realised, and the viable elements of the new system are to function effectively, a development management officer will be at the centre of managing discussions between communities and developers, ensuring that consultation is effective and that decision-making is based upon planning merits and justifiable mitigation measures.

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To this extent a development management officer is placed at the hub of a wheel, the spokes of which represent the other 'actors' in the system, the turning of the wheel representing the journey from concept to delivery. Development management's facilitatory approach is challenging for those working in planning implementation. The development management officer is required to manage each proposal as a project (either formally through a Planning Performance Agreement – see Box 4 – or informally), co-ordinate activities, mediate between communities and other parties, and ensure that the best outcome is realised.

It will be necessary for many planners to further redefine their roles and work ever more closely with communities if localism is to be embraced. For example, while the draft PPS¹⁰ noted that 'the level of pre-application engagement will be dependent on... the willingness of those promoting the development to engage', the Localism Bill (Section 102) requires prospective applicants to make persons in the vicinity of the land aware of their intentions. This will place a statutory requirement on pre-application publicity – whether this amounts to consultation or anything approaching engagement/involvement is yet to be stipulated.¹⁴ The extent to

Box 4 Planning Performance Agreements

Planning Performance Agreements (PPAs) are effectively project management tools designed to facilitate the effective co-ordination of all aspects of the development proposal relevant to the planning process. They are designed to bring together all the key actors with an interest in the scheme (including in some instances appropriate community representatives) to manage the implementation process in accordance with an agreed timescale with marked significant milestones. Examples have already been seen in Bristol, Lancaster and Westminster, and the potential exists for more widespread use.

The main hurdle to the acceptance of this approach for major developments is perhaps the issue of probity and transparency in decision-making, as well as managing expectations. The agreement of a PPA does not, of course, imply an approval at the end of the process. However, what a PPA can do is support the effective management of the decision-making process.

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‘We’re going back, Marty... back to the future’

Numerous questions remain unanswered in this brave new world. The Coalition Government appears intent on damning the existing system and everything associated with it, but too often the old has been swept away without reflecting upon its merits. Development management finds itself at a cross-roads. Will it be recognised and continue to be mainstreamed? Or will another idea be written-off because of its historical political associations?

Development management does not equate to localism, and nor is it the ‘silver bullet’ some appear to be looking for, but it does represent an example of positive planning which can contribute to a functional and effective planning system.

The tools are available, so let them be exploited at the local level in an intelligent, progressive and informed manner. The development management approach offers much in the emerging landscape, and the best practice it has stimulated must be championed and the compatibility of the method with localism highlighted.

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Notes

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