



# **LDOs and localism** **can local development orders** **contribute to the new planning agenda?**

April 2011

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Cover photo: **John Moriarty**

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The cover image depicts an array of photovoltaic cells on the rooftop of the BIS building, an example of the type of small scale renewable energy they might be permissible as part of the proposed local development order at Dacorum.

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# Introduction

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Local Development Orders (LDOs) are a little used tool in the planning toolbox. However, as the localism agenda develops, that might be about to change. The Localism Bill sets out the government's plans for Neighbourhood Development Orders, (NDOs) which would allow communities to specify the types of new development in their area that would have automatic planning permission. This throws the spotlight onto understanding when a development order of any kind is relevant and worthwhile.

“The LDO will make it easier for businesses to make small-scale improvements to their properties. In turn this will save time and money for themselves and the council. We also hope it will help to attract new investment to the area and retain existing businesses, which is so very important in the current economic climate.”

**Councillor Charles Goldstein, Planning and Performance Portfolio Holder, Hertsmere Borough Council**

Local authorities already have the power to develop LDOs. To help understand better how these can be used effectively, PAS has been supporting a pilot group of local authorities to develop LDOs. Three of these have now been adopted: one each at Hertsmere Borough Council, Wycombe District Council and Swindon Borough Council. It's too early to assess the impact these have had. However, the pilot authorities report that the experience of getting an LDO in place has been a mainly good one.

This summary of the LDO project is designed to give you a flavour of the issues involved in developing an LDO, the circumstances or objectives when you might want to consider an LDO, tips for developing a viable LDO, and the potential benefits and unresolved questions to date. We hope this will help you in your own preparations for neighbourhood planning and localism.

For more on LDOs on the PAS website go to <http://www.pas.gov.uk/pas/core/page.do?pagelId=114302>.

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## Why now?

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LDOs are being looked at afresh for three reasons:

- 1.* The government is keen to examine how the planning process can be simplified by improving processes and removing the need for planning permission where this is appropriate and proportionate.
- 2.* The Killian Pretty Review (2008) reinforced the need to promote the potential role of LDOs as a tool for achieving a reduction in planning applications.
- 3.* The Planning Act 2008 makes it easier for local planning authorities (LPAs) to introduce LDOs by removing the requirement that they should achieve policies set out in adopted local development documents.

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## **Piloting LDOs**

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This section provides a brief description of each of the pilot LDO projects, including their current status (as at April 2011).

### **Cornwall Council: community engagement**

Cornwall is using an LDO in conjunction with a parish council-based design guide to encourage greater engagement by the local councils in planning. The LDO will cover householder development such as porches, dormer windows and front extensions.

The cabinet adopted a design guide in October 2010. Following a further public consultation in October, Cabinet agreed the LDO could be approved by the planning portfolio holder. The LDO has evolved slightly and will need to be consulted on again.

As at April 2011, adoption is imminent.

### **Cornwall Council: economic development**

Cornwall Council is also using an LDO at Newquay Cornwall Airport in a partnership with Cornwall Development Company to give it the permitted development rights of private airports and to help develop an aviation-related business park.

Members approved a draft LDO for aviation-related development such as runway resurfacing, improvements to taxiways and the construction of aviation-related buildings. Consultation on this draft closed in March 2011.

### **Dacorum Borough Council: renewable energy**

Dacorum proposes creating an LDO for small-scale renewable energy systems in its major business park.

It is currently consulting on a draft LDO (April 2011).

## **Devon County Council: dimension stone extraction**

Devon is considering using an LDO to promote the availability of very small quarries for important types of building stone to restore heritage buildings.

Evidence studies are underway.

## **London Development Agency partnership: energy**

This partnership between the Thames Gateway Development Corporation and the London Boroughs of Barking and Dagenham and Havering is looking to use an LDO to support a district heating network. The network will use waste heat that currently goes into the River Thames.

The LDO is drafted and officers are preparing a briefing note for boroughs to use to introduce members to the LDO. The boroughs will agree the final wording of the LDO and decide on the process through which it will be adopted.

## **Hertsmere Borough Council: regeneration**

Hertsmere's LDO focuses on one of its sub-areas. The types of developments allowed under the LDO include some rear and side extensions, new and replacement windows and entrance features. It also encouraged the installation of solar panels.

The LDO was adopted by the council in February 2011.

## **Southampton City Council: campus/health**

Southampton, in partnership with the Southampton University Hospital Trust, investigated basing their LDO on a masterplan for the major refurbishment of the general hospital. Due to changing circumstances the hospital requested that development of the LDO be postponed.

## **Swindon Borough Council: environmental improvement and increased occupancy**

Swindon aims to improve occupancy rates and the environmental quality of a key gateway area to the town centre by allowing for changes of use.

The LDO was adopted by the council in March 2011.

## **Swindon Borough Council: householder applications**

Swindon's second LDO is linked to the council's planning guidance for householder applications. This will hopefully involve working with the Planning Portal to produce a Swindon version of the Interactive House, which could be used by Swindon householders/agents to identify whether their proposal would be LDO compliant.

The LDO is forecast to be adopted in August 2011.

## **Wycombe District Council: retail**

High Wycombe is suffering from a high rate of empty shop units. The council's LDO allows changes of use to help regenerate a key historic quarter of the town centre.

The LDO was adopted by the council in July 2010.

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# Hints for preparing an LDO

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## Set clear objectives

Have a clear objective leading to demonstrable benefits and keep referring back to ensure the LDO remains focused. The LDO can have a short or a long time horizon. Develop a robust evidence base to support the objectives and to build a monitoring framework for feedback and future enforcement.

Think about the following:

1. What type of development do you expect your LDO to cover (see box, 'Reasons why an LDO could be a good idea')?
2. What mechanism will you use to define the acceptable development?
3. What level of detail will you need to define?
4. How will the LDO be administered – for example, how will people know what they can do without needing a planning application?

LDOs are likely to be quicker and easier to set up, communicate and manage if they are for defined development in defined locations and are within a single LPA.

Although an LDO does not have to be backed by a specific development plan policy, it will give it more strength if the policy intent is already agreed and is supported by evidence and potentially a supplementary development plan/masterplan or design guide that has provided some certainty about what form of development will be permitted.

“We have received very positive feedback from residents/businesses on the LDO. In these times of austerity, we anticipate that the LDO will help deliver regeneration at no cost to the council.”

**Swindon Borough Council**

## **Manage the project**

Key to a successful LDO is having a project plan and remaining focused on what you are trying to achieve. This means allocating enough time and ensuring that the staff who are managing the preparation and setting up of the LDO are committed to the project.

One of the lessons from the first round of pilot authorities was that the more thought that had gone into the project at the start, the more smoothly the project proceeded. Pilots that did not schedule fixed events such as elections and meetings of their cabinets (taking into account lead-in times) found their projects slipped.

## Box: Reasons why an LDO could be a good idea

Objective / description	Potential benefits
<p><b>Promote vitality</b> Permit wider range of uses to occupy premises in town centres without the need for planning applications</p>	<ul style="list-style-type: none"> <li>• create opportunities for relocation or development</li> <li>• provide opportunities for community-based organisations to occupy premises</li> <li>• no procedural delays associated with making an application</li> <li>• certainty of outcome</li> </ul>
<p><b>Promote employment</b> Adopt LDO as part of a shift to a more locally driven planning regime that provides a simplified planning consents process in specific areas where there is potential or need for business growth</p>	<ul style="list-style-type: none"> <li>• create opportunities for local businesses to relocate or for new or young businesses to develop in established employment locations</li> <li>• no procedural delays associated with making an application</li> <li>• certainty of outcome</li> <li>• improved prospects for immediate yields on employment property investments</li> </ul>
<p><b>Maintain local residential character</b> Reduce cost and uncertainty of making a planning application for local residents, or for renovation work on large estates with similar buildings</p>	<ul style="list-style-type: none"> <li>• improved residential amenity</li> <li>• no procedural delays associated with making an application</li> <li>• certainty of outcome</li> </ul>
<p><b>Generate renewable energy</b> Simplify planning procedures for installing infrastructure to help implement local initiatives for a low carbon economy</p>	<ul style="list-style-type: none"> <li>• improved energy efficiency</li> <li>• no procedural delays associated with making an application</li> <li>• certainty of outcome</li> </ul>
<p><b>Support masterplanned development</b> Enable development to be undertaken in accordance with a formally agreed masterplan</p>	<ul style="list-style-type: none"> <li>• no procedural delays associated with making an application</li> <li>• certainty of outcome</li> </ul>
<p><b>Promote innovation and regeneration</b> Encourage innovative approaches to development on sites with multiple owners or occupiers</p>	<ul style="list-style-type: none"> <li>• no procedural delays associated with making an application;</li> <li>• certainty of outcome</li> <li>• no constraining by detailed plans that do not reflect the future occupiers' needs</li> </ul>
<p><b>Meet community objectives</b> Empower local communities to determine what forms of development should be permitted without the need for planning permission</p>	<ul style="list-style-type: none"> <li>• enhance locality</li> <li>• participate in local community</li> <li>• no procedural delays associated with making an application</li> <li>• certainty of outcome</li> </ul>

## **Manage the risks**

A risk assessment helps to focus on the purpose of the LDO, what type of development will be included and how it might operate. It can help to manage expectations. And it will also assist with drafting the LDO and the conditions to be attached.

It might help to imagine what the area will be like following the LDO: Who/what are you wanting to attract? Think through the unintended consequences such as:

- Who/what might you inadvertently exclude but would have wanted to allow?
- Who/what might you be including that you didn't expect or intend?
- What are the implications of the changes in activity levels that may arise from the allowed development?
- Will the LDO result in subsequent impacts such as extractor flues on the front of buildings?

## **Engage stakeholders**

It is not only planning staff who will be involved: the LDO will benefit from strong inter-departmental working – for example, economic development, environmental health, community development – and contributions from elected members at an early stage to the vision and objectives. You should also involve major external stakeholders from the outset to make sure there is bottom-up support based on their experience of the issues to be resolved.

The main test of the LDO being fit for purpose will be through consultation. Different stakeholders will have different expectations of the LDO. Get the community signed up and involve local people through, for example, surveys of their views.

## Spread the word

Think about how to ensure that internal staff from across the relevant departments understand the LDO. Consider writing an easy-to-understand guide to an LDO for the public and for members.

Include the communications strategy for the LDO in your Statement of Community Involvement (SCI) and make sure the LDO development process is included in your annual monitoring report.

Don't forget that this is a 'good news' planning story. You are developing an LDO to make 'good' development happen. Spread the word through press releases and encourage the affected community to discuss the project.

**Regenerating Victoria Road**

**The Relaxation of Planning Controls**

In response to a recent Council survey, Victoria Road residents and businesses identified the high vacancy rates in the area as a major concern. To help tackle this problem the Council has been preparing a "Local Development Order" (or LDO) for the area. We are delighted to inform you that the Government has now approved the LDO.

The LDO grants planning permission for the land uses below\* (subject to Conditions) and by so doing, removes the need for a planning application to be made for these uses

A1: Shops	C1: Hotels
A2: Financial & professional services	C2: Residential Institutions
A3: Restaurants and cafes	C3: Dwelling Houses
B1: Business	D1: Non-residential institutions

The flexibility that the LDO provides to property owners along Victoria Road will help to improve occupancy levels. In doing this it is anticipated that the LDO will complement the redevelopment of the college site in delivering the much needed regeneration of the wider Victoria Road / Regent Circus area.

Full details of the LDO can be viewed on the Council's website at [www.swindon.gov.uk/planning](http://www.swindon.gov.uk/planning)

\*In accordance with the Town and Country Planning (Use Classes) Order 1987 (as amended)

Wiltshire Partnership Trust Swindon Borough Council

Swindon's leaflet promoting their Victoria Road LDO

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## **LDOs: are they worth it?**

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While the PAS LDO project has received positive feedback from the councils involved and their partners, there remain some unresolved questions about the overall value and benefits that LDOs could deliver. Some of these are explored below.

### **How much does an LDO cost?**

Based on the experiences of the pilots, it is too early to say.

Two pilots – Wycombe and Swindon – set out cost–benefit analyses that identify in some detail the tasks involved and projected financial implications. Overall, these analyses are inconclusive. Both have projected financial benefits as well as costs. For example, establishing an LDO prescribing permissible development will reduce the fees an LPA would have received from prospective developers in that area. But this loss of income might be offset by savings accrued through officers spending less time processing applications.

A potential extra cost is that an LPA must monitor development that is permitted by an LDO – in contrast, permitted development is not normally monitored. LPAs therefore have to work out what notification procedures they will need, and this will require resources to manage. The pilot LPAs are considering various techniques and charging fees.

### **Do LDOs work well for developers?**

The project has identified a number of potential benefits of LDOs for developers (see Box, ‘Reasons why an LDO could be a good idea’). However, there is a question as to whether the anticipated benefits for developers will be realised in practice. For example, meeting the set of criteria specifying permissible development may be no more straightforward as applying for planning permission.

## **What is an appropriate level of consultation on an LDO?**

Pilot authorities have debated how to manage objections to an initial consultation on an LDO. The consensus appears to be that an authority can't simply change an LDO in response to consultation and then adopt it. Under current requirements, they would have to re-consult on an amended or revised draft LDO.

This seems onerous, and there is an unanswered question about whether procedures for consulting on an amended draft LDO can be simplified so that LPAs can be more responsive to suggestions from consultees.

## **Do LDOs stifle innovation?**

An LDO may be perceived as stifling innovation, but a developer can still apply for planning permission if they want to. From the perspective of an LPA, non-LDO development applications will need to be handled sensitively, especially if it was likely to approve a proposal that is contrary to the objectives of the LDO.

## **Should LDOs apply to listed buildings?**

An LDO does not override the need for listed building consent. However, this appears to be disproportionate given the minimal risks involved in applying the LDO to changes of use only.

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## Annex 1: What should your LDO contain?

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Based on the pilot areas, the following is a checklist for preparing the LDO documentation. It should be relevant whatever the type of development you are planning to use an LDO for.

### The order

- Background/context
- Objectives
- Purpose
- Area covered (including map of proposed area and/or list of addresses)
- Type of development
- Conditions (cross refer to appendices, design codes and so on)
- Legal agreement (summarise as heads of terms at consultation stage)
- Identify who to consult

### Statement of reasons

- Description of development to be permitted
- Justification for LDO: the issue to be resolved by designation, why the area has been chosen, details of specific sites
- Statement of policies: where there is a link to a DPD or to other strategies
- Timescale: period of LDO and options for renewal if appropriate, plus conditions for compensation
- Monitoring: data sources, timescales and notification procedures for developers
- Legal advice received
- Description of risk assessment and risk management, for example, how residential amenity has been considered
- Conditions to be applied and any legal agreements (just heads of terms in the consultation document), reference to detailed descriptions of development, for example, design guidance, masterplan and so on

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The Planning Advisory Service provides consultancy and peer support, learning events and online resources to help local authorities understand and respond to planning reform.

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