



Report into the use, value for money and effectiveness of Local Development Orders in implementing Local Authority objectives

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EXECUTIVE SUMMARY

When the Planning Advisory Service (PAS) reported on the early 'pilot' Local Development Orders (LDO) in 2011, just four had been adopted. By December 2013 there are 65 adopted LDOs across 41 Councils. The majority relate to Enterprise Zones (EZ) and so it follows that business and employment are the predominant development types.

Development Type	No of LDOs	%
Residential Extension/ Alterations	4	6
Residential New Build	0	0
Employment	52	80
Agriculture	1	2
Mixed Use	2	3
Energy	2	3
Retail	4	6
	65	100

Although the number of LDOs has increased, it remains far lower than original estimates. There appear to be many reasons that LDOs remain a rarely used planning tool:

- Preference for outline planning permission;
- Requirement for Environmental Impact Assessments for larger sites and EZs;
- Concerns about loss of planning control;
- Resource and cost concerns;
- Concern about winning Member support; and
- Changes to permitted development rights overtaking the decision.

KEY POINTS FOR COUNCILS CONSIDERING A LOCAL DEVELOPMENT ORDER

Most LDOs had goals relating to economic regeneration or some form of simplified planning environment to complement the Enterprise Zone regime.

But no Council has yet attempted to quantify value for money or impact directly. In general, LDOs have been adopted too recently to allow time for comparative data to be useful and full reviews may be some years off.

Several Councils commented that loss of income from planning applications and building control fees had been a consideration at the beginning of the process, but that, in their view, the anticipated advantages of development, whether measured in terms of reduced vacancies, increased rates or jobs created, far outweighed any loss of income.

In general, there is little data available to demonstrate whether LDOs have met their objectives. In part this is a function of their newness. However most Councils are clear that potential developers see LDOs as positive statements of intent and are confident they will play a part in securing development in the future.

But the majority of LDOs in our detailed survey remain subject to detailed conditions, often requiring prior approval by the Council. For example, Templefield North East LDO contains 49 conditions, 22 of which require that details/schemes have prior approval from the Council.

Nonetheless the majority opinion from participating councils is that LDOs speed things up.

FINDINGS FROM THIS RESEARCH

It is clear that whilst LDOs can be a positive planning tool in the eyes of important stakeholders. What is less clear-cut is the extent to which they are currently simplifying planning.

Whilst they bring a degree of certainty to the process by establishing the principle of development and setting parameters - this is essentially what an outline planning permission already does (except for changes of use).

In all the Councils we surveyed for our detailed case studies, the formal application system was, to a greater or lesser degree, replicated by the requirement on a developer to confirm compliance with the LDO, as well as the imposition of detailed

conditions, which in a great many cases required ongoing and prior approval. This is not really taking development out of the planning system, or indeed greatly reducing planning controls, it is instead a lessening or easing of planning control.

The question is: is this inevitable or is it possible to approach things differently? It is worth noting that several Councils highlighted this issue themselves and speculated whether they could have sought less control by conditions.

Early findings

INTRODUCTION

BACKGROUND

When the Planning Advisory Service reported on the early 'pilot' Local Development Orders (LDO) in 2011, just four had been adopted. Since that time the number of councils using LDOs has grown greatly, at least in part as a response to the Government's drive for economic growth and its efforts to cut red tape and simplify the planning system.

This study and report has sought to gain a clearer understanding of the use of LDOs by Councils, to determine how many Orders have been made and how they are being used. It provides a picture of the range of objectives set by Councils in deciding to make an Order examines the process they have undertaken and identifies both good practice and difficulties and barriers to their wider use, including resourcing issues. Consideration has been given to evaluating the effectiveness of the LDOs measured against their objectives, identifying any cost benefits where possible. The study builds on the research carried in the PAS report on LDOs and Localism (April 2011) and gives an insight into the impact of implementing LDOs with a focus on their use within the context of simplified planning regimes and economic growth.

WHAT IS A LOCAL DEVELOPMENT ORDER?

A Local Development Order grants planning permission for the type of development specified in the Order, and by doing so, removes the need for a planning application to be made. Local planning authorities have powers to make them.

Local Development Orders are very flexible in that they can:

- Apply to a specific site, sites, or wider geographical area;
- Grant planning permission for a certain type or types of development; and
- Grant planning permission outright or subject to conditions.

They do not remove the need to obtain consent under any other relevant regimes.

Enterprise Zone status is conditional upon putting in place a genuinely simplified approach to planning. Local Development Orders are the most likely planning mechanism to simplify planning controls in Enterprise Zones.

The Planning Act 2008 made it easier for Councils to introduce LDOs by removing the requirement that they should achieve policies set out in adopted local development documents.

SURVEY OF THE USE OF LOCAL DEVELOPMENT ORDERS IN ENGLAND

STUDY BACKGROUND

The first stage of the study involved a comprehensive survey to determine the extent of adoption of Local Development Orders (LDOs) across all English Councils. An internet search was undertaken, with the results checked against information held by the Department for Communities and Local Government (DCLG). A short questionnaire survey was then carried out of 311 councils in England. This was undertaken via an online survey between 16th October and 30th October 2013 (Appendix 2). The analysis in this section of the report generally refers to the overall survey of all Councils. Where reference is made only to those Councils that responded to the questionnaire survey, this is indicated as such.

STUDY RESULTS - HEADLINES

LDO ANALYSIS

As of December 2013 there were some 65 adopted LDOs, across 41 Councils. 31 Councils had adopted one LDO, with four Councils with two and three LDOs each. Waveney District Council had adopted five LDOs, whilst Swindon Borough Council had had adopted six.

SPATIAL COVERAGE

38 (58%) of all adopted LDOs related to Enterprise Zones, while 23 (35%) related to a specific site or neighbourhood. Just two covered the whole of the LPA area.

DEVELOPMENT TYPE

Table 1 shows the type of development allowed by LDOs, from which it can be seen that Employment was the predominant use, with 52 LDOs (80%). The next most common development types were Retail and Residential Extension/ Alterations, with four LDOs (6%) in each category. There were no LDOs which allowed new build residential development.

NEW DEVELOPMENT/CHANGE OF USE

LDOs mostly targeted new development with just fifteen allowing change of use to Employment, three to Retail and one to Mixed Use. Change of use to residential was allowed in one LDO.

Table1: Adopted LDO Development Type

Development Type	No of LDOs	%
Residential Extension/ Alterations	4	6
Residential New Build	0	0
Employment	52	80
Agriculture	1	2
Mixed Use	2	3
Energy	2	3
Retail	4	6
	65	100

CONSENT REGIME

Just 10 (15%) of adopted LDOs provided for no formal notification or prior notification before commencing development. The remainder needed some form of advance notification/ approval/ confirmation but with the majority stating that confirmation of compliance would be given within 28 days.

DATE OF ADOPTION AND LIFESPAN

The adoption dates for LDOs range from February 2011 through to November 2013. The lifespan of most LDOs was 3 years, although there were examples of 2, 4, 5, 7, 8, and 10 and in one case 15 years.

MONITORING OF LDOS

Only 14 (65%) of the Councils with adopted LDOs and who responded to our survey had established some form of monitoring system to measure the effectiveness of their LDO.

LIKELIHOOD OF PREPARING FUTURE LDOs

When asked, just 10, 16% of Councils who responded said that they were preparing or considering preparing an LDO.

REASONS FOR NOT PURSUING AN LDO

If Councils had considered preparing an LDO but decided against, they were asked the reason/s for this decision. There was no dominant reason for not proceeding but issues included:

- Requirement for EIA for larger sites and EZs
- Preference for outline planning permission
- Concerns about loss of planning control
- Resource and cost concerns
- Concern about winning Member support
- Changes to permitted development rights overtaking the decision

DETAILED CASE STUDIES

CASE STUDY CONTEXT

From the 20 councils who responded to the Stage 1 survey, 10 were selected for in-depth interviews: Burnley, Cornwall, East Riding of Yorkshire, Fylde, Harlow, Hertsmere, London Borough of Harrow, Sheffield, South Ribble, and Swindon. In addition David Baird from BAE Systems was interviewed for an applicant's perspective.

This section sets out a summary of the findings from the detailed interviews. The original questionnaire for Stage 2 case study interviews is set out in Appendix 3.

CASE STUDY FINDINGS

Across the 10 Councils interviewed, 19 LDOs had been adopted, of which six were in Swindon and three in Harlow. Eight more were under consideration, with four of these (three in Swindon and one in South Ribble) already in the consultation stage. Swindon's aim is to adopt a suite of twenty in total.

Of the adopted LDOs:

- 15 (79%) are employment related, allowing minor extensions or specific B type uses;
- Two (11%) are retail related allowing change of use from retail to other uses (one allows residential change of use, the other excludes such uses);
- Two (11%) are householder related (House Extensions);
- 7 of the LDOs were adopted for use within 5 EZs;
- Just one Council with an EZ also had other LDOs unrelated to the EZ;
- All the LDOs were adopted between Feb 2011 and Oct 2013

THE MAIN DRIVERS FOR PREPARING LDOs

All LDOs (other than the Swindon and Cornwall House Extension LDOs) had direct economic regeneration and or employment generation aims. The LDOs relating to office and industrial development focussed on encouraging the development of specific high tech and skilled employment uses, in a tighter way than allowed within the normal use class orders. For the two retail related LDOs, the aims were to reduce vacancies and encourage regeneration.

All LDOs associated with Enterprise Zones were intended to introduce some form of simplified planning environment to complement the Enterprise Zone regime.

The Swindon House Extension LDO's aims were to release limited staff resources from small scale applications so that larger scale regeneration applications could be better resourced and also to reduce red tape by combining building control applications with LDO consent on one form. This is an example of an effort to implement a 'single development consent' regime.

It is interesting to note that there was no clear reason given as to why an LDO would be particularly useful in meeting the goals identified in deciding to adopt them. The dominant theme was that LDOs were seen as removing development uncertainty, providing an extra tool for implementing EZ strategies and that it could be used as a tool for promoting economic development.

DECIDING TO GO FOR IT AND SETTING OBJECTIVES

The majority of LDOs were promoted by Members and senior officers. In the case of two EZs they were promoted by specific private sector land owners. It is apparent

that Members play a key role in providing leadership and driving the process forward. There was generally a high level of internal support, although some planning officers feared that LDOs would circumvent or weaken planning controls and reduce fees.

Generally, the establishment of clear, measurable objectives for the LDO was weak with objectives either very basic, not given, or set out separately from the main LDO in the statement of reasons. Corresponding references to how these objectives would/ could be monitored was also weak. Swindon has set out specific objectives for each LDO, but not all can be objectively monitored.

GETTING IT DONE

Councils had different approaches to LDOs. Some such as Swindon decided to go for a simple approach; others such as Harlow did a great deal of work up front, in a process akin to presenting a developer with an outline planning permission. For their LDOs, Harlow undertook not only a masterplanning exercise but also supported adoption with a suite of technical documents, such as Environmental Impact Assessment (EIA) Screening Opinions, Transport Assessments and Flood Risk Assessments. A summary of the different approaches is given in Table 2

Table 2: Summary of LDO Approach

Council	Approach
Burnley	Led by Executive Management Team to help progress development of aerospace and high tech industries on a site that had been vacant for a long time.
Cornwall	The Householder Extensions LDO was a pilot and was led by the community and the parish council. EZ related LDOs have been led by the LEP and the Cornwall Development Company. Elected Members have also been involved.
East Riding of Yorkshire	To encourage new port related renewable sector development on agricultural land that is already allocated in the Local Plan for industrial development and has been granted EZ status. Integrated EIA undertaken as a part of the LDO to lessen the burden for future users.
Fylde	The LDO at Warton was LEP led with support from Members who were instrumental in pushing for the EZ status. It is one of three LDOs developed in a joint working initiative with South Ribble, Ribble Valley and Lancashire County Council to attract new, high tech businesses to the existing site and to overcome difficulties presented by multiple ownership.
Harlow	Led by Council in partnership with West Essex Alliance and partners EZ bid was submitted by South East Local Enterprise Partnership (SELEP). Three LDOs were adopted over three sites which form part of one EZ. The planning team produced a Masterplan and Design Guides to overcome obstacles to development resulting from infrastructure issues, to reduce the risk to investors and encourage highly skilled employment opportunities into the area.
Hertsmere	The LDO seeks to encourage employment uses on the site in favour of housing development, allowing for minor additional developments.
London Borough of Harrow	Initial set up of the LDO, which covers part of a district shopping centre and allows change of use to other non-retail uses, was overseen by a Town Centre Manager who was employed on a one year contract with duties including overseeing work on implementing the LDO.
Sheffield	This LDO, which covers the Europa Link area, was a joint initiative with councils in the Sheffield City region. Preparation was undertaken in-house and resourced by Sheffield City Council as lead council.
South Ribble	One of a pair of identical but separate LDOs on an EZ site, the first part of a phased approach to development, with preparation led jointly by the LEP and BAE Systems.
Swindon	Council led and championed by the lead member, with member and officer support. Swindon took a 'bite-sized chunks' approach to LDO preparation and adoption as they found that consultation was easier to manage and individual LDOs could be tailored to the particular opportunities and challenges of each site.

councils have taken different approaches in response to their differing contexts and drivers, whether that is specific local economic and development priorities or resource constraints.

Key Lesson

There is no one right way to produce an LDO; no one objective for doing so. An LDO is very much a tool for dealing with local issues and priorities.

CONSULTING ON LDOs

Consultation was generally undertaken by using 'standard' techniques, such as existing local plan databases, local adverts, public meetings and drop ins. However, councils have taken different approaches to suit the particular local contexts within which the planned LDO will be operating.

Swindon Borough's Council's planning team has used two sounding boards in the local development sector to inform the preparation of the LDOs: the Swindon Inward Investment Group (of local commercial agents), and the Swindon Development Delivery Panel (local developers and agents). The aim is that their input should ensure the LDOs support inward investment.

South Ribble changed their approach to consultation for their second LDO as a result of experience gained by the first, which was not as successful as hoped in engaging with the local community. The public meeting for parish councils and local residents for the second LDO was much more broadly publicised and attracted up to 150 people, compared to just 10 at the first event. As the two LDOs were drafted by two councils, consultation has been shared: Ribble Valley conducted the consultation on the first LDO and South Ribble on the second. Five or six individuals from all the partner organisations meet regularly in respect of this matter.

In Harrow, consultation was carried out with local shops and the wider area, using existing data bases and placing adverts in the press. This led to a positive public reaction whereby the council was seen as being proactive in encouraging development.

Fylde ran a series of drop-in sessions. Whereas there was a mixed response from the community and local businesses, with some adverse reactions from parishes, the drop-in sessions were effective in reducing fears that the LDO meant that it was 'open season' for unregulated development.

Key Lesson

The experience of South Ribble and Harlow in particular indicate the importance of working at an early stage with statutory consultees and other important stakeholders to ensure that the LDO will be an effective tool and secure general buy-in. This is especially important because of the need for such agencies to ensure that their statutory controls are not adversely affected by the loosening of the planning regime intended by the LDO.

PAYING FOR LDOs

Only one of the 19 LDOs had a specific internal budget for their preparation; two others had help from PAS. For the remaining 13 LDOs, the Councils met the cost from existing resources (a number shared the costs between Councils i.e. where cross boundary EZs were in place).

Some Councils stated that, although encouraged by LEPs to prepare LDOs, it had been difficult to obtain funding from them.

One Council (East Riding) stated that costs had been high due to a need to undertake an EIA to resolve strategic environmental issues for the site.

MEASURING EFFECTIVENESS AND VALUE FOR MONEY

No Council had attempted to measure value for money impacts directly. The general view was that this was considered to be difficult to do with any accuracy. One Council (South Ribble) reported that this was due to the fact that governance of the site (that is, the Enterprise Zone) did not sit with them, although they added that the Council would measure effectiveness by the extent to which the resulting development was in line with the masterplan. Burnley had sought guidance and examples of how other Councils were measuring value for money, but this was not

available; what they needed was a 'how to' manual or good practice guide. However, the LDO had only been in place for three months and the Council is monitoring development over the year to report in the AMR.

In general, LDOs had been too recently adopted to allow time for comparative data to be collected and analysed and the majority of Councils seem content to wait until the end of the lifetime of the LDO before carrying out a full review of its effectiveness.

Only three of the nine Councils interviewed had established a cost monitoring system for preparing LDOs. Most had prepared them using in house resources but had not set up separate time sheet recording.

Several local Councils commented that loss of income from planning applications and building control fees had been a consideration at the beginning of the process, but that, in their view, the anticipated advantages of development, whether measured in terms of reduced vacancies, increased rates or jobs created, far outweighed any loss of income.

“This is not really a value for money issue – the effectiveness is in the reduction of vacancy rates” Philip Crowther, London Borough of Harrow

“The LDOs will have a small impact on income stream from the reduction in the number of planning applications. However, it is not the bigger fee-generating applications you’re losing out on, but small schemes, which are still time consuming to process. The cost to process such applications exceeds the loss of fee income. By the time site inspections are conducted and reports written the costs will exceed the planning application fee. Losing out on fees is a narrow view to take. Removing small scale schemes is good for your finances and good for the overall service because you’re getting rid of low impact work that costs you more money to process.”

David Dewart, Swindon Council

Swindon stated that the loss of income from small household extensions may have actually saved money, because these applications generally cost more to process than the fee of £195; removing the requirement for a planning application has the added benefit of allowing Officers to concentrate on more important larger fee schemes. Interestingly, although not included in our detailed survey, the House Extensions LDO adopted by Aylesbury Vale District Council (November 2013)

includes a fee payable on all compliance applications. The fee is £200, which is more than the nationally set planning application fee for householder extensions. The Council makes it clear that this is intended to reflect the actual cost to the Council of processing these applications.

Financial Impact: The example of Swindon Council

Swindon Council have undertaken an analysis of planning fee income secured on the four LDO employment areas over the last 5 years for schemes which would now be Permitted Development under the LDO. The total fee income was **£38,174.5** during the 5 year period

If the LDOs had been in place over this period, the fees would have been half these levels (the Certificate of Lawfulness fee being half of the equivalent planning app fee) i.e there would be a net loss of £19,087.25, which is the equivalent of £3,817 a year. This is a very small proportion of the Council's planning fee income, which is typically over £1m per annum.

The financial impact of adopting the four Employment Site LDOs was reported in the Planning Committee Report “ *Based on the number of applications at the relevant Employment Sites received over the last 5 years, there is not expected to be a material impact on planning fee income levels.*”

In general, the impact of LDOs on Council income has either not been assessed or not yet had an impact owing to lack of development. Several Councils stated that it may be possible to identify loss of fee income and additional rate income in theory, but other benefits would be difficult and expensive to collect. No Council has established a formal monitoring system for assess potential loss of income.

However, Harlow stated that Council income from business rates in the EZ will decrease (due to the system of relief from general business rates in EZs). (It should be noted that since 2013, Councils are allowed to retain part of the income from Business Rates). Swindon stated that there had been a positive impact on their Building Control income, because they linked LDO compliance applications for House Extensions to Building Regulation applications (utilising the same application form). Few Councils had given any consideration to the potential benefit arising from increased building control income from an increase in the quantum of development taking place. This may be due to the lower level of work retained by Local Authority Building Control in larger scale commercial development.

FEEDBACK FROM STAKEHOLDERS

Generally there had been limited feedback across the LDOs on the impact and effectiveness of their adoption. Feedback that had been received was generally positive, although some specific sites have received expressions of concern from the general public regarding “unregulated” development, and from environmental groups on perceived potential impacts.

Internal feedback within Councils has been overwhelmingly positive about the response so far to simplified planning (including enquiries from potential developers) with three looking to adopt further LDOs.

The general response from the local community and businesses has been positive, in particular from businesses. There were some negative concerns expressed by the local community and parish councils affected by the Samlesbury LDO, and Swindon reported concerns from residents regarding the quality of potential housing extensions allowed under the LDO. For larger sites, the land owners were involved and so generally no objections were expressed.

The Landowner's view: BAE Systems - David Baird, Programme Manager

“Our role is work with the Lancashire Enterprise Partnership, County Council and Borough Councils to secure development of BAE Systems’ surplus footprint and develop a viable Enterprise Zone. The aim is to make sure that potential developers can develop as quickly as possible, ensuring appropriate safeguarding to BAE Systems on-site operations and to the wider community.

BAE has had a significant involvement in the LDO and its governance. To prepare the LDO, weekly workshops were held between Lancashire County Council, BAE Systems, South Ribble, Fylde, Ribble Valley and LCC Highways. BAE Systems were heavily involved from the beginning to ensure that the development approach was endorsed by internal stakeholders in order that new development didn’t adversely affect what was happening on site and as a result impact core operations, some of which are licensed from national bodies such as the Civil Aviation Council (CAA) and Health and Safety Executive (HSE) who were also consulted. It was important, therefore, to ensure that the conditions in the LDO provided adequate safeguards and ensured good quality development. Preparing the LDO has been an interesting process, as each participant has different priorities. BAE Systems have been happy to put resources into the EZ and LDOs, including direct labour and commissioning consultants in order to masterplan the site. BAE Systems led this due to being the landowner and also from investing heavily on both sites over their 70 year history which helps identify the site issues, constraints and opportunities more easily than an independent approach.

The process appeared to be straightforward, but in practice it’s a bit more complicated. There was limited guidance from DCLG as this was a novel and new approach to planning, therefore there was no blue print on how to go about it and uncertainty about the level of importance and priority the LDO took over existing planning approaches and how they should be integrated. The LDO did not take away the importance of consulting local and national stakeholders such as the CAA and HSE.

Preparation of LDO:

- Limited guidance available from CLG as this was a fairly new approach for LDOs;
- Found that different councils had different priorities and requirements which required bespoke tailoring for each LDO;
- Still has a semblance of a traditional planning approach as this is a new experience for everybody;
- No formal monitoring as yet, but presume this will be done in future by the respective borough councils and the LEP.

ACHIEVING GOALS AND IMPACT ON QUANTUM/ QUALITY OF DEVELOPMENT

There is little specific data available to demonstrate whether LDOs had been successful in meeting their objectives. This is considered to be largely down to the fact that the LDOs have been adopted relatively recently, with four of them adopted since August 2013.

No major employment development had been secured so far on any LDO in our detailed study, with the exception of Burnley Heddon Ford LDO, where it is considered that one major development decision was influenced by its forthcoming adoption. South Ribble will not be able to measure effectiveness until after the completion of Phase 3 of the planning cycle has been completed. In the case of the two Lancashire EZs, their adoption has been followed by the preparation of associated masterplans which will provide more certainty and where they are confident of future development aided by the LDO.

North Harrow District Shopping Centre LDO set an objective of reducing vacancies against the baseline of 20%, and has now achieved a vacancy rate which is in line with the rest of the town. It is considered that this reduction in vacancies can be partly attributed to the LDO.

Most Councils stated that despite the lack of development to date, the LDOs are seen as positive statements of intent for potential developers that they are “open for business” and are confident they will play a part in securing major development in the future. Several also commented that the adoption of LDOs had resulted in unanticipated ‘value added’ benefits, including improved collaborative working with partners, and as a powerful marketing tool.

There is little hard evidence available from most Councils so far, that the LDOs are having an impact by themselves. Other than Harrow, Burnley and Swindon, no development attributable to the LDOs has yet occurred.

Swindon noted that for the House Extension LDO, applications had been less than anticipated, partly because of changes to residential permitted development rights that had come into effect since the LDO was prepared.

“So far, the effectiveness of the LDOs in achieving their objectives has been variable. The House Extensions LDO has not been successful. The biggest reason for this is the recent expansion of Permitted Development rights, but even before that, local agents weren’t enamoured by them and continued to submit planning applications anyway.”

David Dewart, Swindon Council

There was no clear evidence available to any Council to allow them to make a firm judgement as to whether development that has come forward would not have done so had there not been an LDO in place. However, this is likely to be directly related to the relatively short period of operation since adoption of the simplified planning regimes. In the case of South Ribble, the expected impact will be on the quality of development rather than the quantity. From the interest expressed so far, it seems as if the LDO will prove successful in attracting international companies to the site.

“It is the Council’s view that, given the quality of people that have come forward and shown interest in the site, including international companies, it is likely that this is a direct result of the LDO being in place.” [...]

“Although it is too early to say, it is looking hopeful that, from the interest raised, there will be a very positive impact on job creation. The target figures for this are for 4-6,000 new jobs in the long term, with 1,200 in the medium term.”

Steven Brown, South Ribble Council

With the exception of the Burnley Haddon Ford LDO, where 50 jobs had been created by a company attracted to the site by the impending adoption of the LDO, there was no clear data available on job creation as a result of LDOs to date. However, there was a general view that, in particular on the large site-specific and EZ related sites, where inquiries had been received and advance work on masterplanning was underway, that significant job creation would be the result.

In addition, there was also a general view that the adoption of the LDO had had a positive impact on the image of Councils as being proactive and “open for business”.

The only LDO which dealt with House Extensions was in Swindon. The take up for LDO exemptions was low, partly because of changes to householder permitted development rights, but also because agents had continued to use the normal planning application route.

REMOVING RED TAPE - SPEEDING UP THE DEVELOPMENT PROCESS

The majority of LDOs in our detailed survey were subject to detailed conditions, often requiring prior approval by the Council. For example, Templefield North East LDO has 49 conditions, 22 of which require that details/schemes have prior approval.

Perhaps reflecting its simpler nature, the Swindon House Extensions LDO contains only four conditions, none requiring prior approval.

Six of the eight Councils in our detailed survey required some form of submission or application indicating compliance with the LDO, akin to the prior approval procedures for development permitted, except that they do not give the Council the opportunity to require a full planning application should it have concerns about a particular aspect of a development. In each case, the LDO is precise about what is permitted and what is not. This is crucial in providing the certainty that a developer needs and (from the Council's viewpoint) ensuring that the right kind and quality of development is secured. For its House Extensions LDO, Swindon allowed developers to submit compliance applications jointly with a Building Regulations application, using a 'Householder Simplified Consents Form'.

The majority opinion of those interviewed, is that LDOs have, or will, speed up development, particularly where advance work has been undertaken on addressing key strategic environmental and infrastructure issues (for example East Riding, Fylde and South Ribble). However, Swindon and others thought that approvals could be delayed by taking too cautious an approach and attaching conditions and/or planning obligation requirements. The alternative (followed in East Riding of Yorkshire, Fylde and South Ribble) of undertaking strategic studies and masterplans for EZ areas could reduce the need for some conditions and speed up development through the LDO process. However, it is recognised that this can be expensive for the Council.

OVERALL IMPACT OF ADOPTION AND FORMAL REVIEW OF EFFECTIVENESS

With the exception of Swindon (Appendix 5), no Council had yet undertaken any formal review. Two Councils said they planned a long term review of 5 to 10 years. Another said that they had set a monitoring system in place but had not collected any data yet. They were also concerned that lack of resources may prevent effective monitoring.

All Councils stated that the impact of adopting LDOs had been positive, even where no development had occurred as yet. Common reasons cited were as a significant public relations and marketing tool for the Council, in terms of being perceived as proactive in creating development opportunities and an environment for business development. One Council also said it had a positive impact on staff, and other cited the opportunities it provided for collaboration and partnership working. Another stated that despite changes in permitted development rights, they will continue to use LDOs as they see them as a more positive tool.

LESSONS AND BEST PRACTICE ADVICE

WHAT COUNCILS THAT HAVE ADOPTED LDOs MIGHT NOW DO DIFFERENTLY

A significant proportion of councils learnt lessons by being early adopters. Taken together, this collective advice is:

- engage businesses and local community more effectively;
- apply more resources to make the process quicker, and make the documents more user friendly;
- better guidance is needed, particularly in relation to monitoring;
- get earlier “buy in” from relevant statutory agencies;
- keep things simple;
- think through issues such as boundaries, range of uses permitted (Harrow felt that perhaps the LDO boundary could have been wider to include all, rather than just part, of the shopping centre covered by the LDO)
- ‘let go’ (Swindon felt they could have been less cautious in terms of the level of control that they had retained through conditions).

THE KEY BENEFITS TO ADOPTING LDOs

Councils felt that the adoption of LDOs has had a positive impact; they:

- improve perceptions and give a message that Councils are positive and “open for business” - an LDO is a strong marketing tool;
- have a positive impact on planning departments and staff - showing that Planning can be proactive and contribute positively to Council strategies;
- are a front loaded approach which will speed up development;
- will attract development;
- will remove uncertainties for developers;
- will speed up development; and
- can improve links and partnership working with private land owners and developers.

AND THE DISADVANTAGES?

The key disadvantages or risks evident are:

- the impact on staff and financial resources
- the potential loss of fee income

THINGS THAT COULD HELP COUNCILS ADOPT LDOs MORE EASILY.

The process of adopting an LDO is generally quite straightforward but experience reported in our survey has highlighted a few areas where simple changes might make things easier:

- there is no point in having to produce a separate statement of reasons; it should be subsumed into the main LDO document (i.e. within the objectives);
- the requirement to consult all affected parties is onerous, particularly in the case of borough-wide LDOs.

KEY ADVICE TO COUNCILS THINKING OF ADOPTING AN LDO

- Consider the scope and the area to be covered carefully;
- To be successful you have to have clear objectives and the LDO has to be tailored to ensure that you achieve them;
- Research other Councils' approaches for best practice
- Don't be unnecessarily cautious; be ambitious about what you can achieve;
- Don't underestimate the way that LDOs can be used and the range of development types that they can be applied to.
- Don't underestimate the resources needed to do LDOs properly.
- Be aware that fears may arise from staff, Members and the local community over the potential for circumvention of planning control and the loss of fee income;
- For larger sites, prepare a masterplan first and then the LDO, not the other way around;
- Prepare project and resource plans;
- Get the consultation right; you need 'buy-in' and engagement from all stakeholders;
- address the likely lack of understanding by some about what an LDO is and what it can do;
- Get member support;
- Get the presentation right- Avoid jargon and ensure that all documents are user friendly and attractive. LDO documents could be simplified and consent requirements made clearer where appropriate.
- Think carefully about the conditions you attach to an LDO.
- Monitor; it is important to know whether your LDO is effective in meeting your objectives and is value for money.

- Consider whether you need to review the effectiveness of the LDO in advance of the end of the adoption period to enable successful LDOs to be extended, without disruption and confusion.
- Where it is decided that a prior consent regime is essential, consider (in consultation with stakeholders) whether charging a fee would be appropriate and defensible, eg would it enable additional resources to be made available to proactively deal with LDO enquires and consent procedures.

SOME CONCLUSIONS

MONITORING AND QUESTIONS OF VFM REMAIN FUZZY

Relatively few Councils in our study have detailed monitoring regimes. However, few Councils currently viewed this as important. This seems to reflect the relatively short period of operation of most LDOs and the general lack of development on the ground, as a result of the wider economic climate. Monitoring is generally seen as something that needs doing - just not yet. The improving economy may change this. As more development occurs, more benefits may be apparent; monitoring this may become more important.

The lack of detailed monitoring to date raises a concern in view of the requirement in DCLG Circular 01/2006 that Councils must report to the Secretary of State each year on the extent to which the LDO is achieving its purpose (paragraph 39). The Circular requires that this should be done as part of the Council's annual monitoring report (paragraph 40). The Localism Act 2011 removed the requirement for Annual Monitoring Reports to be submitted to the Secretary of State, although the requirement to undertake monitoring at least annually stands.

There is little if any quantitative data available as yet that could allow us to draw any conclusions about the effectiveness and value for money of LDOs. There is however strong anecdotal evidence that they can play an important role in furthering economic growth, in a targeted way, as part of a wider palette of planning and economic development tools. Whether or not LDOs are 'value for money' is not seen as being of crucial importance by Councils.

COUNCILS ARE POSITIVE ABOUT LDOS, BUT IN A NARROW CONTEXT

It is clear that Councils that have adopted LDOs see them as a positive tool that can help them with a proactive approach to implementing their planning policies and strategies. Despite lack of development, most Councils are very positive about the

benefits of producing LDOs and are confident about future impacts. LDOs are seen as very positive marketing tool. This benefit should not be under-estimated; it helps Councils (and planning services) show that they are being proactive to secure growth.

Whilst the take up rate of LDOs has increased over the last 12 months, there are still barriers, real and perceived, that block their wider use. A better understanding of their value as a tool may overcome this. The wider introduction of the Community Infrastructure Levy (CIL) may make it easier to adopt LDOs given that there would be standardised thresholds, as opposed to the need to negotiate individual s106 agreements.

Adopted LDOs so far have generally related to employment sites and permitting (specific) employment uses. This is understandable but it does also indicate that LDOs are being viewed in too limited a way. None have been used to encourage new build housing as yet. If the best use is to be made of LDOs, Councils will need to take a more creative approach.

LDOS AS PART OF THE PLANNING SYSTEM MORE GENERALLY

It seems likely that changes to permitted development rights have blunted the benefits arising from LDOs relating to retail areas and extensions. The current emphasis on Neighbourhood Planning and its implications for Council resources may also have taken some of the emphasis away from LDOs as a tool.

The effectiveness of LDOs in simplifying planning is being hindered, to an extent, by the notification and consent regimes put in place and the use of conditions. LDOs reduce the burden of red tape; they don't remove it. This is another area where creativity and innovation need to come to the fore.

LDOS AS A LEADERSHIP TOOL

Council Members are important in providing a leadership role and driving forward the process of adopting LDOs. Experience suggests that LDOs are good for partnerships and facilitate a more collaborative approach between industry, local authorities and local needs/drivers for economic growth and development. Where available, the feedback from developers and landowners is positive.

Whilst the majority of Councils who have not prepared an LDO say they aren't thinking of doing so, the majority of those who have prepared them would do so again, especially if resources were available. It is important to note that the potential loss of fee income does not appear to be a defining consideration for Councils in their decision to adopt an LDO or not.

FINAL WORD

Perhaps understandably, Councils have been rather conservative in their approach to LDOs so far. With the upturn in the economic climate, it might be a good time for them to explore more innovative, less controlling ways to use LDOs, perhaps as part of wider consideration about future role of planning as a proactive economic development and regeneration tool, and as part of any future reviews of their planning services. LDOs may have more value to offer, but there is not much evidence for it.

Early findings