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Local Development Orders: Impacts and Good Practice

Executive Summary

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Introduction

- 1 Local Development Orders (LDOs) were introduced to the UK planning system in 2004. An LDO grants permission for certain types of development, in a specified area, subject to conditions and limitations without need for planning application. In effect, it is a general planning consent. Instead of a planning application and application fees, intending developers are generally required to provide a simple pre-notification form and pay a nominal fee.
- 2 Local planning authorities (LPAs) may make LDOs at their discretion, to cover all or part of their areas. They may decide the content of these Orders to reflect local circumstances and priorities, subject to certain limitations relating to European environmental designations.
- 3 Both the UK and Welsh Governments have been encouraging LPAs to adopt LDOs, as part of wider programmes to streamline the planning system and lower barriers to development and growth. In England, the Killian Pretty Review (2008) and a study by Entec for the Planning Advisory Service (PAS) (2009) both concluded that LDOs were a useful tool and recommended that the UK Government sponsor a pilot programme, to help LPAs appreciate the benefits of LDOs and learn how to use them. This recommendation was implemented by PAS, with 10 pilots initiated from 2009 onwards. Since then 37 further LDOs have been adopted, partly in response to the 2011 Government requirement that Enterprise Zones (EZs) should include LDOs.
- 4 In Wales, the Welsh Government gave LPAs discretion to introduce LDOs without Ministers' approval (2012), published a Circular on LDOs¹ and offered some funding to support their preparation through the Planning Improvement Fund (2012). It also encourages authorities to use LDOs, especially in EZs, although unlike in England there is no formal requirement for EZs to adopt LDOs. Despite these measures Welsh authorities have not made any LDOs to date, although two of them have recently undertaken scoping studies.
- 5 Consultation shows that Welsh LPAs' reluctance to adopt LDOs is largely due to concerns about loss of control, loss of planning fees, delay and complication. The authorities have no practical evidence to show if these concerns are well-founded. By the same token they have no evidence to demonstrate if LDOs produce real benefits, or to gauge the balance of benefits against any adverse impacts.
- 6 Accordingly the Welsh Government has commissioned this research for the benefit of Welsh LPAs, to demonstrate the impacts of LDOs and give practical advice on using LDOs, especially in EZs and town centres. As required by the study specification, the report is based on case studies of LDOs elsewhere in the UK – which in practice means England, since there are no LDOs in Scotland or Northern Ireland.

¹ Welsh Government, Circular number 003/2012, *Guidance on Using a Local Development Order*, 30 April 2012

Case studies

- 7 Our case studies cover two town centre LDOs, in High Wycombe and Swindon, and two EZ LDOs, at Milton Park (Science Vale EZ) and Tees Valley.

High Wycombe town centre

- 8 The Wycombe LDO was adopted in July 2010 for three years, as part of the PAS pilot programme. It covered four shopping streets in the historic town centre that were affected by reduced footfall, rising vacancies and a deteriorating environment. The objective was to reverse the area's decline by opening up new opportunities. Accordingly the Order allowed change of use between the A uses (shops, financial services, restaurants, cafes, pubs, takeaways), C1 (hotels), D1 (non-residential institutions) and D2 (assembly and leisure). Physical works were not covered and still required normal planning permission. The Council prepared the LDO in house at a cost of c £10,000, covered by a PAS grant.
- 9 Over the LDO period vacancy in the area fell, but no changes of use took place. The Council attributed this lack of take-up to the LDO not permitting frontage alterations and suspects that a less restrictive LDO might have been more effective. But it also feels that a more flexible policy for shop fronts might have been a better alternative to the LDO. The recently adopted Delivery and Sites Allocations Plan (DSA) now provides this flexibility.
- 10 The LDO expired in July 2013. The Council decided not to renew it, because the new rules expanding the scope of permitted development would allow similar changes without planning permission. The Council takes a positive view of LDOs but has no immediate plans to introduce new ones.

Victoria Road, Swindon

- 11 Swindon Council adopted the Victoria Road LDO in 2011 for three years, also as part of the PAS pilot programme. Victoria Street, a mixed-use area between the town centre and the Old Town, had become run down and neglected. The LDO aims to reduce vacancy, increase footfall and improve the local environment generally. It permits a wide range of uses including A1-3 (shops, financial services, restaurants/cafes), C1-3 (hotels, residential), B1 (business) and D1 (non-residential institutions). Conditions restrict development other than change of use, but shop front changes are permitted. The Council prepared the LDO in-house, at a cost of some £15,000, covered by PAS grant.
- 12 Over the two years of the LDO occupancy levels in Victoria Street have been maintained, while comparable areas elsewhere in Swindon saw rising vacancy in the recession. Although the area remains run down, the indications are that the LDO is having a positive impact - with more properties changing hands, changing use and being refurbished. Within the Council the LDO has saved time and effort on routine development management, freeing staff to work more productively on key tasks such as the new Local Plan.
- 13 When the LDO expires in 2014 officers will recommend that it be renewed, with a longer time horizon, and possibly an expanded boundary and more active publicity and public

engagement. Swindon Council is also working on 12 further LDOs, to cover all the borough's main employment areas.

Milton Park – Science Vale Enterprise Zone

- 14 At Milton Park in Oxfordshire, one of Europe's largest business parks, prestige offices and technology industries have been gradually replacing industrial / warehouse sheds. The LDO was adopted in December 2012 for 15 years. Its purpose is to support this renewal and intensification, and specifically to attract high-quality occupiers to the park – especially in the global inward investment market, where it may be competing with more permissive planning regimes. The LDO also aims to smooth the way for building extensions and alterations by existing users. Accordingly it covers the whole estate, including developed and occupied sites, whereas EZ status is restricted to undeveloped sites. It allows building and change of use for all the business uses - B1 (business, comprising offices, research and development and light industry), B2 (general industry) and B8 (storage and distribution). Other economic uses, such as health services and car showrooms, are permitted in limited quantities on specific parts of the site.
- 15 The LDO was prepared by the Vale of White Horse Council in partnership with the landowner, MEPC – who paid for extensive technical studies, as well as consultations and legal advice, at a total cost of some £200,000. MEPC also entered into a legal agreement securing developer contributions to deal with the highways impacts of development permitted under the LDO.
- 16 Since the LDO was adopted in December 2012 three pre-notifications have been received: one for alterations to existing buildings, one for roadbuilding and one for a 5,000 sq m new building. The landowner's representative comments that these are early days and much more development is to be expected in the future. They add that the LDO is working well as a marketing tool, attracting positive comments from potential occupiers. These businesses value the cost and time savings resulting from the LDO. Perhaps most of all, they value the increased certainty: for a development that complies with the LDO, there is no risk at all that authorisation will be refused.

Tees Valley Enterprise Zone

- 17 Tees Valley was granted EZ status in 2011. The EZ consists of 12 individual sites across the local authority areas of Darlington, Hartlepool, Middlesbrough, Redcar and Cleveland, and Stockton on Tees. The EZ encompasses a wide range of sites, including existing business accommodation, large former industrial sites which have been cleared, and part of the operating port of Hartlepool.
- 18 Four of the five authorities in the area adopted LDOs in April 2012, with the broad objectives of both supporting existing businesses and attracting large-scale inward investment, both in the area's established industries and the emerging digital sector. The Orders have a life of three years. They generally allow construction and change of use in the B (employment) classes and in some cases the A uses (shops, restaurants).
- 19 Although there have been developments in the EZ since it was designated, none have been in the LDO areas. The authorities comment that it is still early days, as the LDOs were

only adopted in April 2012. Tees Valley Unlimited report that the business rates discount is the main factor attracting businesses to the EZ, but the LDO is also a positive factor.

Impact of LDOs

- 20 Our case studies show that LDOs can make it significantly faster, easier, cheaper and less risky to deal with planning control. In LDOs, local authorities in most cases have committed to respond to pre-notifications within two or three weeks, against the eight or 13 week deadline for planning applications in England. Planning application fees, which for the case study areas would have ranged from £385 to hundreds of thousands, are replaced with a token pre-notification fee of up to £150, and developers may also save the cost of material to support applications, including technical studies. Once an LDO is in place, and provided that it sets out clear and unambiguous rules, a development proposal that meets the rules is certain to be accepted. Our research suggests that developers and business occupiers do understand and value these benefits.
- 21 LDOs can contribute to local economic development and regeneration, helping make places more attractive and more competitive. But they will not achieve economic or physical regeneration on their own. To overcome serious economic disadvantage LDOs need to be combined with other policy interventions. In EZs they complement financial incentives and infrastructure investment. In town centres they combine with environmental and public realm improvements.
- 22 Welsh local authorities in consultation were concerned that LDOs would lead to a loss of democratic control over development, undermining the role of elected members and local communities. Our case studies do not bear this out. Where an LDO is in place, local authorities and communities still exercise democratic control over development, but the method of control is different to traditional planning – using clear rules set out in advance, as opposed to case-by-case discretion. In the case study authorities, early consultations have dealt effectively with community concerns - even in Milton Park, where initially there was significant local opposition. Elected members have been happy with the LDOs; none of the Councils we have consulted would rule out LDOs for the future, and one of them is currently progressing further LDOs to cover all that authority's main employment areas.
- 23 Another concern of Welsh local authorities has been that LDOs would increase their workloads and add more layers of complexity to an already complicated system. Again, our case studies suggest that this is unfounded. Councils report that the preparation and adoption of LDOs were generally straightforward. Also LDOs reduce workload in development management, cutting out routine work on non-contentious applications. This may free staff for more productive work at a time when there is much to be done, especially on development plans.
- 24 LDOs of course reduce income from planning applications fees, because instead of an application developers only need to submit a pre-notification, for which they pay the Council a token sum. However, this reduced income should be balanced against reduced workload, and the resulting financial balance may be positive.

25 A separate financial issue is the cost of preparing the LDO. Where the LDO permits major development with substantial impacts, a great deal of preparation will be needed, including extensive technical studies. This work may be financed by a landowner, as was the case in our Milton Park case study. Where this is not practicable and there are no alternative sources of funds, an LDO may not be the right solution for the area.

Good practice

26 Chapter 3 of the report provides good practice advice for local authorities, suggesting in what circumstances an LDO may be helpful and how LDOs may best be used. A central point is that LDOs are useful and valuable in particular circumstances – to ease the way for uncontentious development, so that proposals which would be approved anyway are approved much faster, more easily and more cheaply.

27 This means that LDOs are well suited to support minor developments in less sensitive areas. In established employment areas or town centres an LDO can facilitate a stream of changes of use, alterations, extensions and infill developments, replacing many minor applications which are routinely approved. To identify such areas, authorities might look for streams of minor applications which are routinely approved.

28 But LDOs can also facilitate large-scale development with significant impacts, provided the process is front-loaded, with any difficult planning issues resolved before the Order is adopted. This may involve a large amount of work in LDO preparation - on technical studies, consultations and legal agreements as well as the drafting of the Order. If this work is not done at the initial stage, it will have to be done and agreed by the authority in relation to each individual development, the pre-notification process will become more like a normal planning application and the benefit of the LDO may be lost.

29 It may not be possible to resolve contentious planning issues at the LDO preparation stage, either due to the nature of the area, or because there is no money or time for front-loaded work. In that case an LDO may not be the right solution for the area. But if the front-loaded work is done successfully, LDOs can facilitate large-scale development and regeneration. LDOs are well suited to areas of change, including EZs, which will be gradually developed or redeveloped over time through a series of separate schemes or phases.

30 Other important good practice lessons from the case studies include:

- An LDO may work especially well in a development / redevelopment area controlled by a single owner, or perhaps multiple owners working in close partnership. Such owners will stand to gain from the successful development of the area as a whole, and may consider it a worthwhile investment to pay for preparatory work.
- At an early stage in LDO preparation it will be helpful to consult informally with communities, statutory consultees and other stakeholders, with the emphasis on the future of the area rather than the details of the LDO.
- A too-short timescale will compromise success, because much of the point of an LDO is to create certainty and investor confidence. We would suggest that the default life for an LDO should be 15 years, with five-year reviews.

- Too-cautious restrictions, such as Wycombe's decision to limit permitted development to change of use, may defeat the point of an LDO. If an area is so sensitive or so complex that planning control cannot be reduced to simple rules, it may not be the right place for an LDO.
- Local planning authorities should commit to respond to LDO pre-notification much faster than to planning applications, ideally within a fortnight, perhaps with slightly more time allowed in a minority of cases.