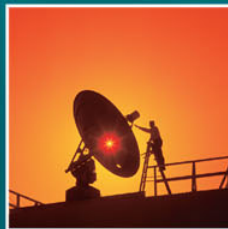


# Planning Advisory Service

## Local Development Orders

Stage 1 Research Report on Stakeholder views and Practice Issues

March 2009



# Entec

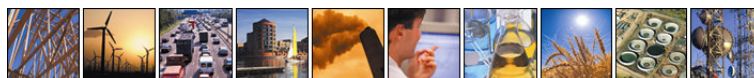
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## Planning Advisory Service

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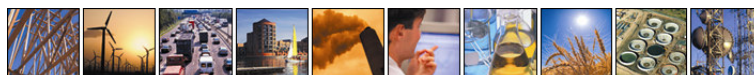
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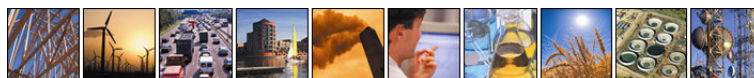
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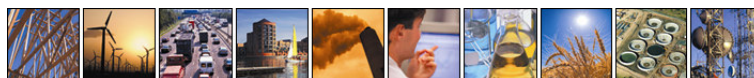


## Purpose of this Report

This report has been produced for the purpose of informing the Planning Advisory Service of the views of key local authority and other stakeholders on the usefulness and potential of Local Development Orders (LDOs). The report also has the purpose of identifying key processes and practice issues. It offers broad pointers to potential good practice in the development and implementation of LDOs.

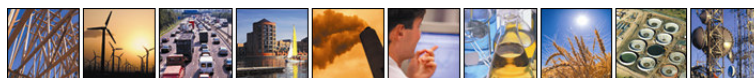
The report was prepared based on work undertaken over the period from 27 January to 24 March. During this time, Entec undertook the following activities:

- Prepared, distributed and analysed responses to a survey of local planning authorities on LDOs and associated issues in development management;
- Interviewed a range of key stakeholders on the use and potential of LDOs;
- Undertook a desktop review stakeholder views on LDOs and of local authority practice to date. This also examined the potential scope of LDOs in different location and policy contexts;
- Provided a process map of LDOs and highlighted associated practice issues and guidance with the LDO process;
- Formulated a draft business case template as a guide for local authority decision-making on the preparation of LDOs, based on understanding the costs and benefits of the preparation and implementation process, of the effects on services to customers and stakeholders in the planning system, and of the effects on environmental outcomes;
- Examined the potential effects on local planning authority caseloads in a sample of cases for a sample of LDO-types;
- Highlighted key practice issues and potential good practice arising from the above elements of the project;
- Suggested key criteria for the selection of pilot LDOs to act as exemplars of the potential of LDOs in a range of contexts.



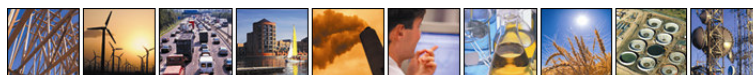
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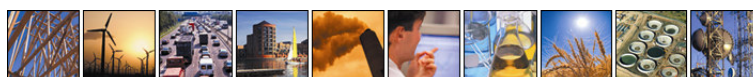
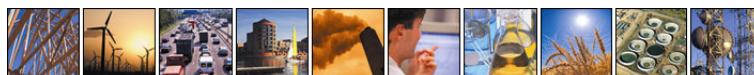


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A Separate Report has been produced which holds supporting appendices, containing the following information.

Appendix A	List of Stakeholders who Participated
Appendix B	Interview Question Areas
Appendix C	LPA survey questions
Appendix D	Call for Information
Appendix E	Desktop Review of Published Stakeholder Views
Appendix F	Views given by LPAs
Appendix G	LPA Survey Response Results



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## 1. Introduction

### 1.1 Introduction and Background to the Project

This report examines the current and potential use and support for the introduction of Local Development Orders (LDOs).

Since their introduction in the Planning and Compulsory Purchase Act 2004 and their commencement following Circular 1/2006, Local Development Orders have not yet been successfully introduced into the English Planning System. For reasons which have not been clear, though are suspected to lie in their perceived complexity, their relatively low priority vis-à-vis LDF preparation and legal constraints on their introduction in advance of LDFs, LDOs have had a muted or even hostile reception.

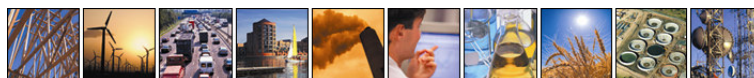
The Killian-Pretty Review has now reinforced the need to promote the potential role of LDOs as a tool for achieving a reduction in planning applications where this is both appropriate to the local environment and brings benefits to customers and local authorities. However, given the obvious lack of interest expressed by local authorities in LDOs, a start must be made by seeking to understand the reasons for the lack of support for LDOs, better scope the process and uses of LDOs in the light of recent legislative change, properly lay the foundations for an assessment of the benefits and impacts of LDOs to service providers, service users and the wider environment and provide a platform for further stages to this project to carry out pilots to prepare and implement LDOs.

This is a good time to present LDOs afresh. In recent years, there has been greater acceptance of the principle of change in the mode of management of small scale development arising from reforms to permitted development rights and changes to development control practices. Second, and most importantly, in de-linking LDOs from the (LDF) development plan having to be in place, the Planning Act 2008 has removed an important obstacle to the introduction of LDOs in the minds of many local authorities.

### 1.2 Project Scope and Method

The study aim is to understand key stakeholder views on Local Development Orders – the benefits, the obstacles, potential solutions and potential purposes. The scope of the project involved the following key elements – gathering views, identifying constraints and solutions, guidance to local authorities, criteria for pilots, process mapping, resource estimation, business case development and scenarios for LDO usage.

The project was commissioned on a timescale which allowed seven weeks from inception to consideration of the draft report. A particular consideration was the lack of current LDO experience, support or understanding of potential among local authorities and stakeholders. A particular risk was that they might not give sufficient feedback within the timeframe required.



## 1.2.1 Stakeholder Views on LDOs

Concerns of poor knowledge base and project time constraints influenced the choice of approach on the project, which comprised a number of modes of engagement.

### Interviews of Stakeholders

Using an information note and questions about LDOs, a range of stakeholders were followed up for their views and for interviews. This included local authorities, representative organisations and businesses/institutions which may be interested in LDOs.

### Electronic Surveys

An opportunity was given for local authorities to give their views on LDOs through an on-line survey which was sent to all local planning authorities via PAS weekly bulletin. The survey was also distributed through relevant parts of Planning Officers Society (POS) direct to local planning authorities.

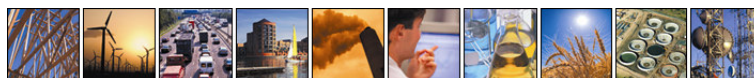
A short note of the project was produced and a number of questions asked of a wide range of other key stakeholders. The note and request for views was sent to stakeholders on the National Planning Forum, the RTPi Development Management Network, the British Property Federation and CBI Newsletters, and via the POS Bulletin.

### On-line Discussion Forums

Information about the project was put on several on-line resources and forums. This was viewed as an opportunity to generate feedback on LDOs.

### Desktop Review

When first proposed as part of the planning reform programme culminating in the Planning and Compulsory Purchase Act 2004, LDOs were not universally welcomed and key stakeholders in local government and other sectors made representations on LDOs, pointing out their potential benefits and costs. A review these was made as part of the information gathering process in order to understand the evolution of views about LDOs over the period since their introduction.



## 1.2.2 Mapping LDO Process and Potential

### LDO Process Map

Relevant legislation and guidance was examined and consideration given to the requirements for Environmental Impact Appraisals. This was used to create a process map for the preparation of LDOs and the identification of the limits of LDO scope and coverage.

### LDO Potential Uses

Based on the desktop review and the views of stakeholders, a series of potential LDO-types was developed in a common format. These outlined the potential and discussed some of the potential considerations involved.

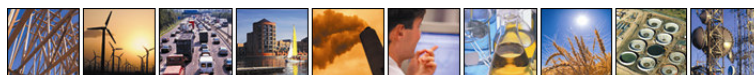
## 1.2.3 Providing a Business Case for LDOs

### Business Case Template

An area of concern raised about LDOs relates to the uncertainty surrounding the performance and potential impact they could have on planning services, customers and stakeholders, and on the environment. The project aims to provide a tool for the assessment, locally, of the costs and benefits of preparing and implementing a Local Development Order

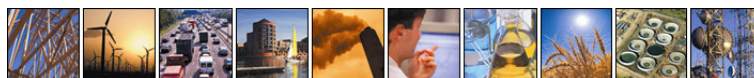
### Good Practice

The project identifies good practice measures (tools, techniques, services, skills) which need to accompany LDO preparation and implementation specific to the type of development covered.



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## 2. LDOs Explained

### 2.1 Introduction

LDOs were conceived originally in discussions between key stakeholders in the planning process representing businesses, developers, local authorities and other interests. The idea was based on a recognition of the cost (time and money) and uncertainty felt by businesses engaging in the planning process to make planning applications for developments which have an insignificant impact on neighbours and limited to inside the confines of the development on which they are located (perhaps a business park). Given the perceived low impact arising from these developments, the question was asked, ‘why do businesses need to submit to the risk of entering the planning process for permission?’

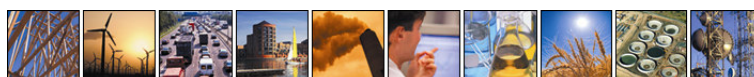
It was argued that planning permissions considered serially could actually work against achieving quality from many small-scale developments coming forward for permission against generic development control policies. It was suggested that a more effective framework of control could be to shift to a form of development management based on development permitted within an agreed framework for development in that specific location, incorporating development limits, design guidance and other supporting guidance. Development coming forward within such a framework could have the requirement to secure planning permission removed.

This was an early exposition of the adoption of the impacts-based approach to development management. Crucially, LDOs, as they became known, would cover development still requiring planning permission and would not cover development permitted by the GPDO.

This is a crucial distinction since it addresses a common misconception about LDOs. They are not a withdrawal of planning control on the basis that impacts from developments specified in an LDO are insignificant, so as to be regard as permitted development. But they are developments for which it can be shown that they can be effectively controlled within an LDO framework of decision making. That is the strategic consideration of development impacts arising from developments specified in an LDO, which support the achievement of a policy objective and which are acceptable in planning terms following consideration of relevant policy objectives and material planning considerations.

### Heritage Protection Review

The early stages of the DCMS Heritage Protection Review considered exactly the same idea under a different heading in relation to research which examined the scope for management agreements to set the framework of change and small scale development within large historically important building with listed features – London hospitals and universities were considered in this research. There was a similar response from local authority heritage professionals to this idea, preferring the greater control afforded by formal planning, listed building and conservation area processes. Heritage Partnership Agreements provide a similar mechanism for the management of



development consents processes which are geared towards improving the cohesiveness of the management of the historic environment assets and at the same time reducing the burden of consents processes through undertaken a strategic and proactive approach to their management.

## **Box 1 Examples of Heritage Partnership Agreements**

### **Cornish Bridges**

The project took in 27 bridges, 22 milestones and 7 crosses across north Cornwall. A HPA was created between the LPA, the HA and EH.

- Over a 5 year period the LPA received 35 consents applications (11 for listed building consent applications and 24 for scheduled ancient monument consent). It was estimated that the HPA reduced consent processing time from 13 hours to around 2 hours per operations (including preparation, visit and admin).
- The HPA also quickened decision making to 2 days (including notification of works and recording)
- Based on these time savings it was estimated that in this case a HPA would incur a one-off set up cost of £4,464 but result in repeated annual savings of £2,558 from then on.

### **University of East Anglia (UEA)**

The unique campus at UEA contained a variety of buildings that were all listed in 2003. Following the listings, EH persuaded the university to participate in the pilot study for HPAs. The university saw this as an opportunity to influence prevailing opinion. After discussion with EH the university developed the concept of a Conservation Development Strategy (CDS).

The CDS describes itself as '*a novel approach to conservation planning.....more ambitious than a typical conservation plan because by adding opportunities for change, it mitigates the planning uncertainty faced by UEA due to the significance of its existing building stock*'

UEA appointed Cambridge Architectural Research (CAR) to generate the strategy with help from their Estate and Buildings Division.

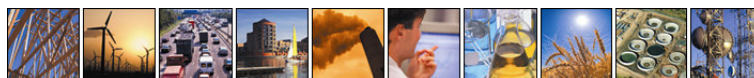
The CDS has provided guidance for those engaged in the day-to-day maintenance of the campus. It has constantly provided its worth in relation to defining the legitimacy of refurbishment projects in relation to listing. Its usefulness has been demonstrated in supporting an application for listed buildings consent for a major multi-million pound refurbishment of famous ziggurats, where both consultation time and administrative activities were reduced.

### **London Underground**

London Underground are responsible for more than 50 listed buildings amongst the 253 stations. Through the HPA process LU have been able to jointly articulate their vision for the stations to other stakeholders such as local authorities. Previously, any works undertaken required numerous applications to different authorities and to English Heritage. The idea of Station and Heritage Maintenance Plans has since been suggested.

## **2.2 Legislative Basis of LDOs**

Initially, research was commissioned by ODPM to examine the potential scope of LDOs. This was undertaken by Land Use Consultants and Wilbraham, in a report called '*Formulation of Guidance on the use of LDOs*'. The review examined the perceived benefits and obstacles as identified by stakeholders and examined the broad cost implications of LDOs. It is notable that, six years on, some of the key benefits and obstacles highlighted by stakeholders remain (see Section 3 of this report) – they are immediately apparent and do not appear to have diminished through LDO enactment and implementation. This is primarily due to the lack of implementation and practice which might generate new information and so facilitate an evolution of views on LDOs.



## Box 2 Stakeholder Views on LDOs, 2003 Study for ODPM (*Entec comments in italics*)

### Key benefits

1. LDOs could reduce the volume of smaller applications, notably householder (provided there is appropriate design guidance). This would therefore free up officers time allowing them more time to work on larger applications.
2. LDOs could help to make the planning system more responsive to local needs, something which local authorities have expressed an objective to achieve.
3. LDOs could provide a greater certainty for developers seeking permission of certain types of development or change of use.

### Key Obstacles to LDOs

1. A concern which is difficult to overcome until someone tries is that LDOs are unproven. Perhaps this would be better expressed as the risks and consequences of failure.
2. 'Savings' in planning application costs would be replaced with costs (to applicant and LPA) in securing Lawful Development Certificates, as people will seek to guarantee themselves against subsequent enforcement. Rather than reduce workloads, LDOs could create more work for development control officers. *This is still a widely held view.*
3. Statutory Consultees were concerned about the effect on their interest/statutory responsibilities. *To some extent the provision in Circular 1/2006 for LDOs to be subject to EIA processes addresses this concern.*
4. In opposition to the perceived benefits of providing LDOs which are locally responsive, LDOs could cause a great deal of confusion at a local level as standards would differ between authorities. There is a longer term and wider view among local authority planners that planning rules should be exactly the same everywhere or else, differences will emerge and confusion will result, leading to different development practices. *This is a slightly circular argument not applied to other local authority approaches where 'difference' is a core reason for seeking locally responsive and distinctive approaches to service design and delivery, and to funding. A more pertinent question in relation to LDOs might be 'why does the planning system need to be uniform, everywhere?'*
5. Enforcement of LDOs would be more problematic than with a planning application. Two reasons were given for this. The first was that the local planning authority is less likely to be aware that a development has taken place. The second is that the LDO would have to be highly prescriptive to ensure a strong basis on which to initiate enforcement proceedings. *Depending on the LDO, there may need to be bespoke monitoring arrangements to understand the effects the LDO is having on development in the area (the Circular implies it).*
6. Without incentives, the loss of fees that would come with using LDOs might act as a disincentive for LPAs. *Clearly, this remains an important issue.*

Source: Land Use Consultants and Wilbraham, 'Formulation of Guidance on the use of LDOs' (ODPM) 2003

## 2.2.1 Planning and Compulsory Purchase Act 2004

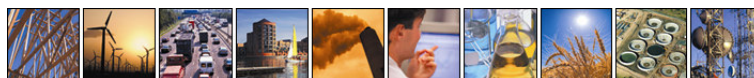
LDOs were introduced through the Planning and Compulsory Purchase Act, in two sections, as follows.

### Section 40: Local Development Orders

- (1) In the principal Act after section 61 (supplementary provision about development orders) there are inserted the following sections—

### Section 61A - Local Development Orders

- (1) A local planning authority may by order (a local development order) make provision to implement policies—



- (a) In one or more development plan documents (within the meaning of Part 2 of the Planning and Compulsory Purchase Act 2004);
  - (b) In a local development plan (within the meaning of Part 6 of that Act).
- (2) A local development order may grant planning permission—
- (a) For development specified in the order;
  - (b) For development of any class so specified.
- (3) A local development order may relate to—
- (a) All land in the area of the relevant authority;
  - (b) Any part of that land;
  - (c) A site specified in the order.
- (4) A local development order may make different provision for different descriptions of land.
- (5) But a development order may specify any area or class of development in respect of which a local development order must not be made.
- (6) A local planning authority may revoke a local development order at any time.
- (7) Schedule 4A makes provision in connection with local development orders.

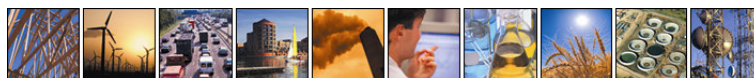
## 2.2.2 DCLG Circular 1/2006

DCLG Circular 1/2006 '*Guidance on Changes to the Development Control System*' provides guidance to local planning authorities on the procedural steps for the preparation of LDOs. The Circular provides guidance on the relationship between LDOs and the development plan, and sets out the developments which cannot be included in LDOs. It also provides guidance on the requirements for Environmental Impact Appraisal of LDOs. Section 4 of this report provides a more detailed overview and discussion of the LDO process based on the Circular.

## Reforms to Permitted Development Rights, 2004-2007

The Householder Development Consents Review introduced an impacts based approach to the consideration of householder permitted development rights, with impacts measured on a number of levels ranging from the building in which the development is taking place, to neighbouring properties, to the street and at the largest scale, to the wider neighbourhood/locality.

LDOs were seen to be a primary tool that could be used to manage change in an impacts based approach, which could have the effect of making management of change more sensitive to local environmental constraints and, where appropriate, to permit developments in particular areas where this is appropriate in terms of securing the quality of development which is also appropriate.



## 2.2.3 PPS1 Companion Guide: Planning and Climate Change

The Climate Change Companion Guide to PPS1 raises the potential of LDOs. The Guide makes it clear, that policies relating to local requirements for decentralised energy and/or sustainable buildings should be set out through a development plan document, not through a supplementary planning document. This is so that targets and requirements are properly consulted on and tested to ensure their ambition reflects local potential and that they are deliverable.

Paragraph 24 states that:

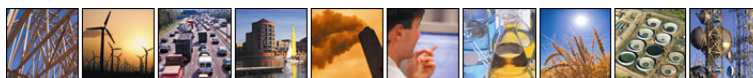
*‘Planning authorities should give positive consideration to the use of local development orders (LDO) to secure decentralised energy supply systems and renewable energy, and other new development consistent with the policies in this PPS’.*

Paragraph 26 states that:

*‘An LDO could also be site-specific to bring forward development of a particular site or sites. In practice, to ensure that such LDOs deliver the right type of development their use should be complemented by guidance, including design codes, produced by the planning authority and in line with this PPS’.*

Some ways in which LPAs can use LDOs to promote particular climate change and energy initiatives include:

- Broadening the application of ‘permitted development’ rights in some or all of their area, to cover a wide range of householder and micro-renewable installations;
- Providing an overall framework permission for the installation of district heating networks based on an existing generation station to serve existing housing;
- Provide a framework permission for a decentralised area network for generating facilities to serve several development sites and/or existing housing.



## 2.2.4 Planning Act 2008

The Planning Act 2008 includes a provision to remove the requirement for LDOs to explicitly implement the policies contained in an adopted development plan. This should make it easier for authorities without an adopted development plan to prepare and implement LDOs. The relevant section of the 2008 Act is set out below:

- (1) Section 61A of TCPA 1990 (local development orders) is amended as set out in subsections (2) and (3).
- (2) Omit subsection (1) (requirement to implement policies).
- (3) In subsection (2) for “A local development order may” substitute “A local planning authority may by order (a local development order)”.
- (4) In paragraph 2 of Schedule 4A to TCPA 1990 (revision of local development orders) omit subparagraphs (4) and (5).

## 2.3 Action to Date

So far, there are no adopted LDOs. Whilst we have noted some interest, generally, there is a low level of interest in LDO development. There are two known to be actively being prepared. These are described below.

### Box 3 Slough Trading Estate Development of LDO

The Slough Trading Estate Simplified Planning Zone (SPZ) is a working example of how a LDO for a specific area could operate in practice. The industrial estate was one of eight SPZs adopted in England. It was originally implemented to help regenerate the estate and now helps with the continual renewal and replacement of premises with new units to keep the estate attractive to business. The estate is home to around 400 businesses and is the largest industrial estate in single ownership in Europe.

The key characteristics of the SPZ are:

- Box 1 The SPZ was adopted for B1(b), B1(c), B2 and B8 use classes only
- Box 2 25 conditions and over 30 informatives
- Box 3 Sensitive boundaries
- Box 4 Some of the issues with SPZ are:
- Box 5 No mechanism for reviewing SPZ making it more generous than elsewhere in the Borough e.g. parking standards.
- Box 6 Fee loss – not an issue here given amount of development in the Borough, but could be a problem for other Boroughs with less development.
- Box 7 Key factors for success are:
- Box 8 Strong partnership approach in drafting and implementing the SPZ, bringing benefits to both the landowner and Borough Council.
- Box 9 Single point of contact means communication is more efficient.
- Box 10 SPZ status sets estate apart from others, it is an important marketing tool and provides certainty for 'pre-let' clients.

The Borough Council and Slough Estates were keen to continue the partnership approach as it makes business sense and ensures the site continues its role as a major employer. As a result, the adopted Slough Core Strategy states that aside from the key elements, all other proposals will be implemented through LDOs which will replace the existing SPZ.



**Box 3 (continued) Slough Trading Estate Development of LDO**

Slough Council – LDO to replace SPZ for Slough Trading Estate (Adopted Core Strategy)

Core Policy 5 (Employment) states:

B1(a) offices may also be located on the Slough Trading Estate, as an exception, in order to facilitate the comprehensive regeneration of the estate. This will be subject to the production of a Master Plan and the provision of a package of public transport improvements. This will be partly delivered through a subsequent Local Development Order which will replace the Simplified Planning Zone.

**Box 4 Hertsmere Council, LDF Core Strategy development of an LDO**

The commencement of provisions in the Planning and Compulsory Purchase Act 2004 has also provided Local Authorities with the scope to make a Local Development Order (LDO) for a particular area. To facilitate the day-to-day operational requirements of the two principal studios in Borehamwood and maintain the studios as attractive locations for film and television production, the Council will consider making provision for a future LDO in these two locations. An LDO would grant permission for certain types of development (as specified in the LDO) and in doing so, would remove the need for a planning application for some of the small-scale changes which take place within the studio sites

Support was expressed for this approach as part of earlier consultation on the LDF in 2006. However, an LDO would need to take account of residential and other land uses located close to the studios and would clearly need to be limited to those operational activities which have no adverse effect on neighbouring properties. However, the intention would be to ease planning controls over those small-scale changes which are generally granted permission by the Council.

**Policy CS11 Promoting film and television production in Hertsmere**

*To promote the retention and growth of the film and television production industry in the Borough, the Council will support proposals relating to film and television production and ancillary or associated uses in Borehamwood. Proposals to develop, refurbish and upgrade film and television studios will be supported subject to environmental constraints and other relevant policies.*

*In order to facilitate the operational requirements of the film and television production industry, the Council will also seek to make a Local Development Order (LDO) on the principal studio sites. The LDO will grant permission for future, small-scale changes within these sites relating to their primary use as locations for film and television production.*



# Entec

*Creating the environment for business*



## 3. Stakeholder views on LDOs

### 3.1 Introduction

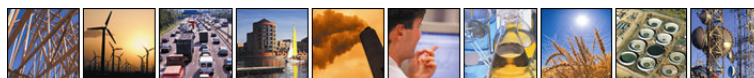
This section covers the views of stakeholders on LDOs. The main methods adopted for gathering views included a desktop review of relevant documents on the internet relating to the introduction of LDOs, an online survey of local planning authorities and a more open survey note was prepared and disseminated to stakeholders in the planning system through national organisations bulletins and websites. Also, a limited number of interviews with key interested stakeholders were carried out to gather more detailed views about LDOs. This section relates the findings from these activities.

Written views of stakeholders in the planning system are largely sourced from responses and views published about LDOs in the context of LDO research in 2003, the Planning and Compulsory Purchase Act 2004, subsequent consultation on Development Control, briefing on Circular 1/2006 publication, inputs to the Killian Pretty Review, and the recent Planning Act 2008. As result, these tend to give a view of the potential benefits and obstacles to LDO introduction from the perspective of the stakeholder. The review of this material is largely historic but has nevertheless been useful in confirming that the views held in 2003 largely persist in some quarters, particularly local authorities, today. On the other hand, business concerns were addressed in the Act to some extent (for example in relation to ensuring LDOs are not a tool for removing permitted development rights).

### 3.2 Survey Findings

A survey was developed which sought a range of information and views from Local Planning Authorities. The sequencing and purpose of the survey questions was as follows:

- Identify the local authority, its geographical location and type;
- Identify the broad make up of its workload and capacity in planning service terms;
- Identify the level of presence of LDO ‘friendly’ sites to determine the extent of the LDO ‘opportunity’ in the area;
- Determine use of good practice planning tools to support implementation of planning policies;
- Examine views about the potential role of LDOs in a number of settings;
- Gather experience of LDOs in local authority;
- Determine intentions about LDOs in future.

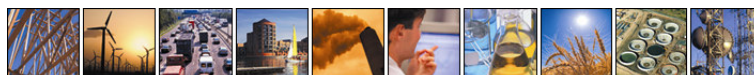


The survey was despatched as a weblink contained in a letter to LPAs from Entec/PAS. The letter was sent via the PAS weekly bulletin to Chief Planners of LPAs. The POS also sent the letter in its email bulletin. A press release resulted in a reference to the survey in Planning Magazine. Reference to the study and survey was sent to wider stakeholders in a survey note.

**Table 3.1 Authorities Responding to the Survey**

Respondents
Hart District Council
Stockton on Tees Borough Council
Bedford Borough Council
Southend-on-Sea Borough Council
New Forest District Council
Stockport MBC
Hampshire County Council (only M & W & reg 3)
Teignbridge District Council
Westminster City Council
East Sussex County Council
South Lakeland District Council
City of London
Tamworth Borough Council
Wigan
Kingston upon Hull
Norwich City Council
Bury Council
Salford
Hull
Taunton Deane borough Council
Hertsmere
LB Bromley
Dartmoor National Park Authority
West Devon Borough Council

Table 3.1 shows the Local Authorities that participated in the online survey. Of the respondents 14 were Local Authorities in predominantly urban areas and 8 in rural areas.



All respondents were aware of Local Development Orders prior to undertaking the survey. However fewer than half (47%) were aware of the changes introduced to LDOs by the 2008 Planning Act prior to the survey. (The changes to LDOs introduced the 2008 Planning Act include the removal of the requirement for the LDF to be in place for an LDO to be made.)

Respondents were asked to stipulate how they initially became aware of Local Development Orders. The planning press was the most listed source, followed by the Planning and Compulsory Purchase Act 2004. Other sources included PAS conferences, Legislation updates and the Killian Pretty Review and the Planning Bill.

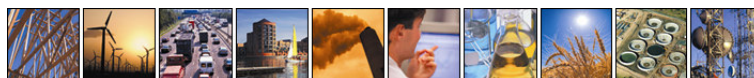
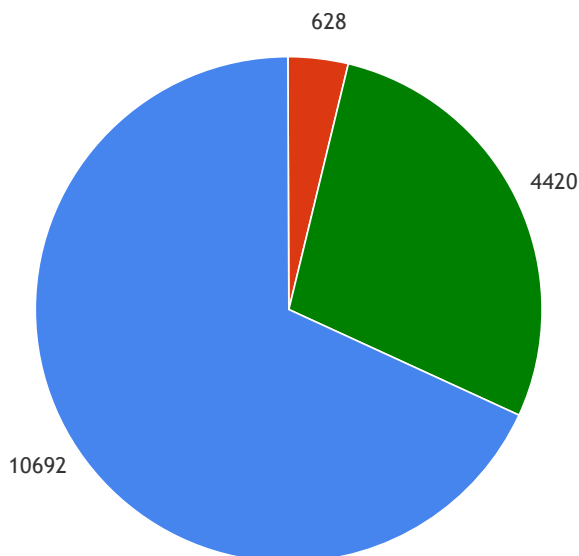
Local authorities were also asked to provide details planning applications determined by their development control team in the last year for which figures have been published. (last 4 quarters to December 2008 inclusive). Overall, major planning applications by all responding local authorities totalled 628 applications. Minor applications totalled 4,420 and other applications accounted for 10,692 (see Figure 3.1).

The survey revealed that no local authorities that responded had adopted an LDO. One local authority was actively progressing an LDO. One Local Authority had begun an LDO but are not currently progressing it. Three local authorities expressed that they may be interested in developing an LDO in the future, however 10 Local authorities expressed no interest. (see Figure 3.2).

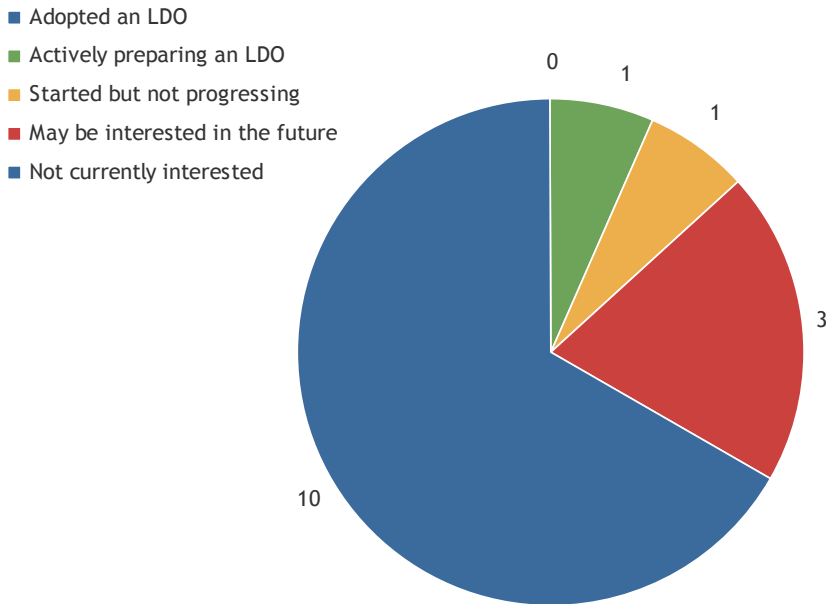
The survey identified that of the LDOs that are being prepared or considered, two are being considered for schools, one for waste and minerals sites, one for town centre and retail use and one for a film and TV studio.

**Figure 3.1 Breakdown of Planning Applications Determined by Local Authorities in the last year. (Last 4 quarters to December 2008 inclusive) (no. of applications)**

■ Major applications ■ Minor applications ■ Other applications

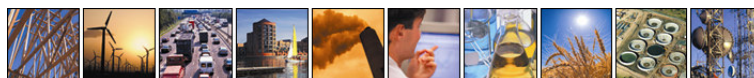


**Figure 3.2 Use and Interest in Local Development Orders (no. of Local Authorities)**



Respondents were asked to identify different tools which can be used for managing development more effectively. The use of LDOs was selected for all the development scenarios by at least some respondents. Design Codes, Informal Design Advice and conditions were cited highly for all development scenarios. Conditions were favoured for “minor householder development in geographically restrictive areas” and “householder development” and “design codes” and “informal design advice” for the other scenarios (see Figure 3.3).

LDOs were cited sparingly for “minor householder development in geographically restrictive areas” and “householder development” however in other cases such as “airports and ports”, “waste and mineral sites”, “schools”, “educational campuses” and “business and research parks” LDOs were cited highly. It can be inferred that some respondents have the opinion that design codes and informal design guidance can suffice without an LDO. A number of the respondents mentioned a combination of design codes and LDOs as tools to manage some scenarios.



**Figure 3.3 Applications for Development which could be Managed more Effectively and the means which could be used (no. of respondents)**

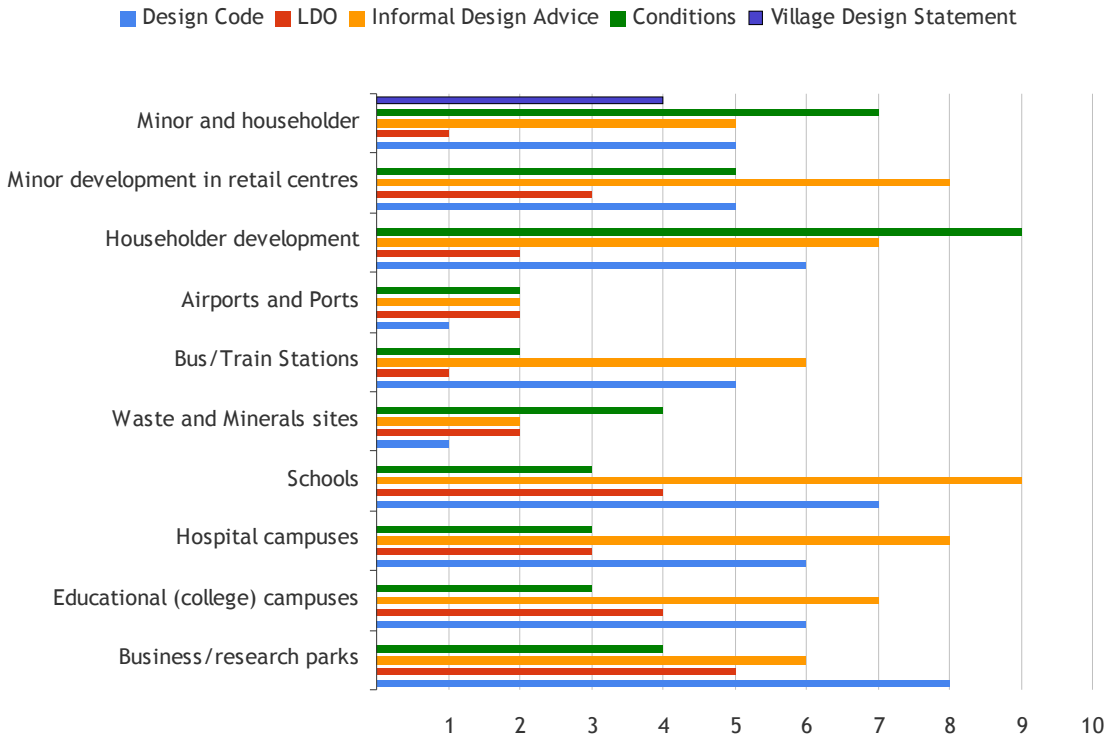
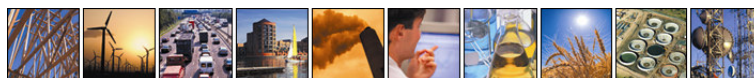
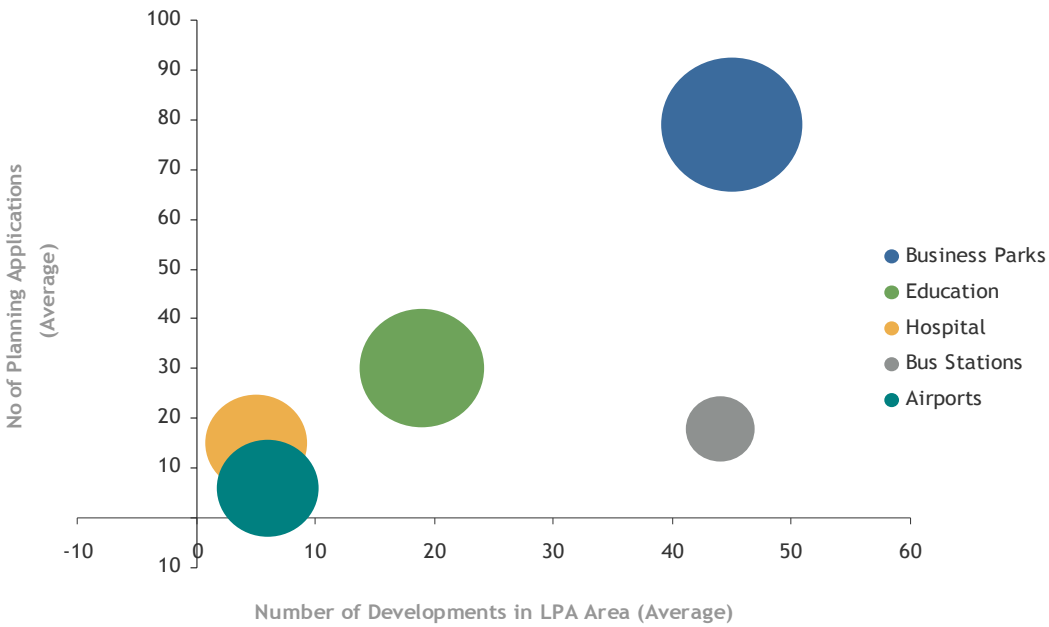
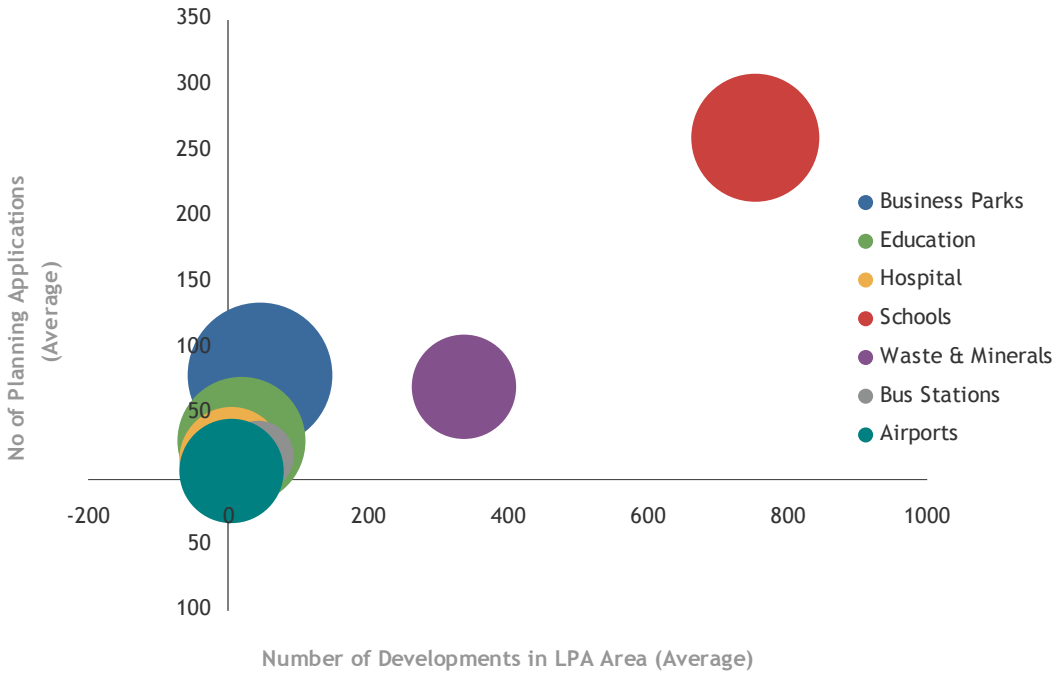


Figure 3.4 attempts to show the potential for Local Development orders by plotting the number of planning applications for each type of development against the number of such developments in a Local Planning Authority Area. The size of the circles indicates the number of respondents who have indicated that the scenario could be managed more effectively by an LDO.



**Figure 3.4 Potential to Reduce Numbers of Planning Applications**



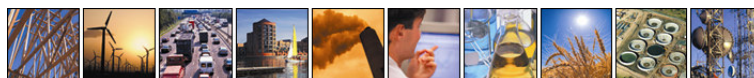
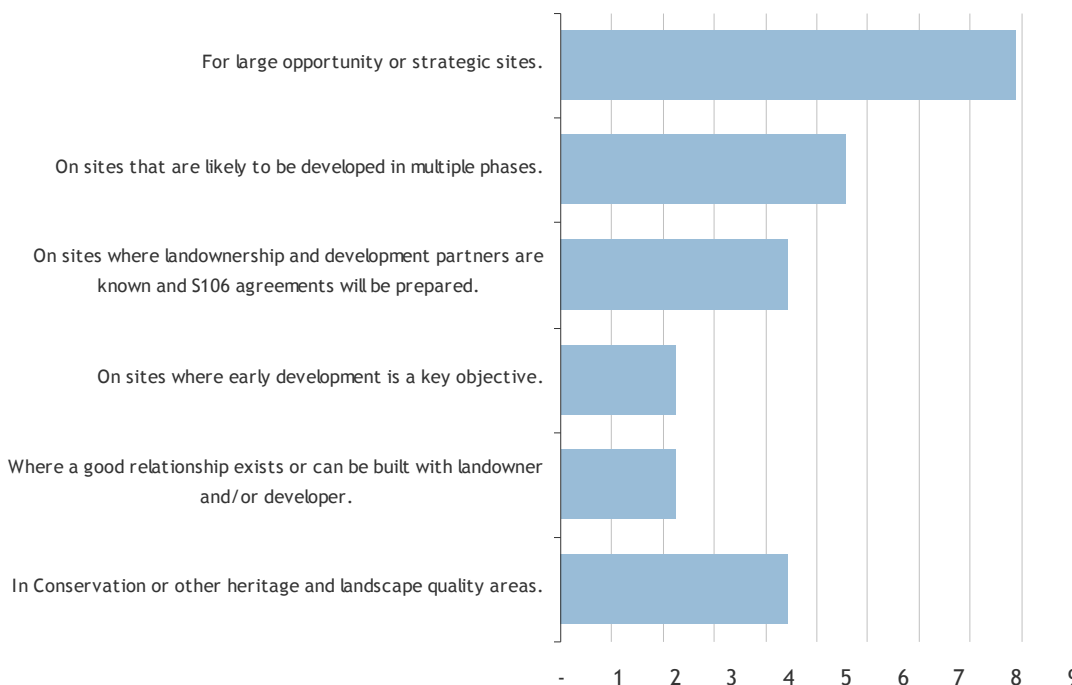
The graph indicates that business parks, educational facilities and particularly hospitals produce the most applications in proportion to the amount of sites in an LPA area. Schools produce proportionally less applications per site, however account for the most numerous developments and applications by far.

Educational facilities, schools and particularly business parks, were deemed to have the highest potential to be managed more effectively with LDOs and given the high proportion of applications could be good targets for LDOs.

Hospitals and waste and minerals sites were deemed to have a slightly less but still high potential. Hospitals therefore may also be a good target given the high proportion of applications. Waste and minerals sites proportionally have quite a low amount of applications, however given the amount of sites this could still be a good candidate.

Bus stations appear to have an insignificant effect on application numbers although they are quite numerous. Airports and ports also seem to have a relatively insignificant effect however this could reflect the fact that much development at airports and ports takes place under GDO consultations opposed to full applications. Airports and buses were also ranked the lowest out of the developments that could be managed more effectively with LDOs. These developments may have less potential for use with an LDO therefore. The survey also sought to identify the kind of sites that Local Authorities prepare design guidance for (see Figure 3.5).

**Figure 3.5** Circumstances in which Local Authorities have prepared or are preparing Design Codes.



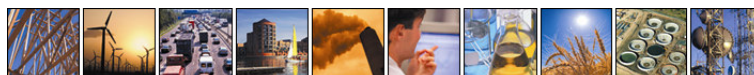
The survey also gauged opinions on the potential benefits of LDOs. Respondents were asked to gauge their opinion on statements about the potential of LDOs, stating whether they *neither agree nor disagree*, *agree*, *strongly agree*, *disagree*, *strongly disagree*. The statements set out in Figure 3.6 below are arranged according to the support received from local authorities (from most support to least support.).

**Figure 3.6 Local Authority Support for Various Statements about the Positive Effects of LDOs**

1.	Would permit types of applications that are invariably granted.	Most support
2.	Would offer simpler procedures for applicants.	
3.	Would encourage preparation of design guides and area management plans.	
4.	Would stimulate regeneration on large sites.	
5.	Would facilitate redeployment of LPA resources to more complex applications.	
6.	Would protect and enhance the environment.	
7.	Would address the cumulative impact of small scale development.	
8.	Satisfaction by neighbouring occupiers would be maintained.	
9.	Would maintain/create transparency of decision-making.	
10.	Would be easy to understand by stakeholders and across a LPA area.	
11.	Would be cost effective for LPAs.	
12.	Would be easy to implement and monitor/enforce.	Least support

The survey also gauged the opinions of Local Authorities on the relative ease or difficulty of various aspects of the process of developing an LDO and also the resource implications (see Figure 3.7). The following statements are arranged according to the ease/difficulty of the process, as indicated by the Local Authorities (from the most straight-forward to the most demanding).

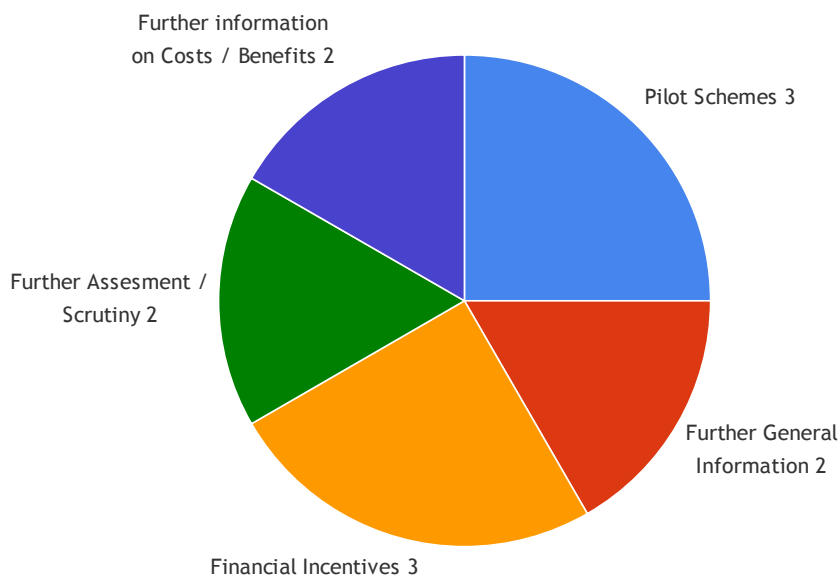
The survey also sought to capture Local Authorities' thoughts on the potential roles of LDOs and how they could be made a more attractive tool for managing development. Figure 3.8 identifies the main suggestions made by Local Authorities to improve the take up of LDOs. Respondents' full suggestions are provided in Table 3.2. Financial incentives and pilot schemes were the most common suggestions.



**Figure 3.7 Local Authority Views of the ease of Completing LDO Processes**



**Figure 3.8 Local Authority Views on how to Improve the take up of LDOs**



**Table 3.2 Local Authority views on how to Improve the take up of LDOs**

<b>What would help to improve the attractiveness of LDOs?</b>
<p>1) A much better understanding of what is involved in creating a LDO and the associated costs and benefits.</p> <p>2) Cultural acceptance is needed by all stakeholders, in particular political parties involved.</p> <p>3) LDO approach is really new approach to the established way we decide land use decisions, and though it is recognised as a practice in other countries (Zoning), it is in conflict with existing DC practice. Moreover, if it is the wish of Government to move to a new approach, this should be done strategically at a national level after consideration of the technicalities and appropriate consultation.</p> <p>Significant financial incentives which would outweigh the cost implications.</p> <p>As the concept is not based on experience and demonstrating clear planning benefits, it would need to be piloted and impartially assessed and its outcomes clearly identified.</p> <p>Greater information and examples in action of good practice.</p> <p>Provide more resources within authorities to do such work but I would question the value of these against the present arrangements.</p> <p>Financial resources to enable the process to be introduced in a positive manner</p> <p>Pilot schemes. Good practice guidance.</p> <p>Not sure - but they need to be considered along more far reaching reforms of the GPDO</p> <p>For a very sparse rural area such as this they don't seem particularly useful but I can see they might have a role in more urban areas</p>

Respondents were also asked to comment on how their members would likely react to the introduction of an LDO. The survey revealed an overwhelming negative view, with eleven Local Authorities predicting a negative reaction and only two predicting a positive reaction. Respondents' full suggestions are provided in Table 3.3.

The survey also sought to gauge the views of Local Authorities on the potential of LDOs to help achieve local policy and prevent climate change. Responses were generally positive. Respondents' full suggestions are provided in Table 3.4.

**Table 3.3 Local Authority views on Member Reactions to Implementing an LDO**

<b>If you were going to recommend that your authority prepared a LDO, how do you think your members would react to the proposal?</b>
<input checked="" type="checkbox"/> Extremely doubtful that members would support the concept of LDOs, as they would have to release a degree of scrutiny control.
<input checked="" type="checkbox"/> Negatively - it is considered that they feel generally controls should be increased.
<input checked="" type="checkbox"/> As indicated above my Council do not have a particular local issue which the preparation of an LDO would address and therefore they would need to be satisfied that the production of an LDO would produce significant benefits for the Borough
<input checked="" type="checkbox"/> I think they would require significant briefing and some information to explain that this would not reduce their decision-making ability.
<input checked="" type="checkbox"/> With wariness about loss of control and influence.

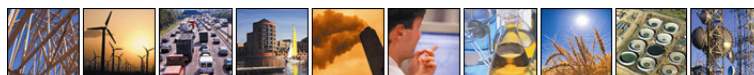


**Table 3.3 (continued) Local Authority views on Member Reactions to Implementing an LDO**

If you were going to recommend that your authority prepared a LDO, how do you think your members would react to the proposal?	
<input type="checkbox"/>	Not supportive
<input type="checkbox"/>	Members recognise resource implications, and the cumulative effect that small scale developments can have. Impacts within the town centre, which is a conservation area, are important at the local level. Any further freedoms for out of town retailing would be resisted
<input checked="" type="checkbox"/>	Positively
<input checked="" type="checkbox"/>	Depends on the scale and circumstances. Minor changes to some PD rights for example that reduce amount of non-contentious applications likely to be supported. Larger scale possibly concerned about losing control.
<input type="checkbox"/>	Negatively -as they would be unwilling to give up powers except in industrial/commercial areas where there are no residents immediately affected.
<input type="checkbox"/>	I suspect that they would see this as a loss of control to the detriment of local decision making - a further extension of delegated powers and a lack of input by elected members
<input type="checkbox"/>	With trepidation given that there are residential properties all around one of the sites we are considering
<input type="checkbox"/>	Bewilderment?

**Table 3.4 Local Authority views on the potential of LDOs to Achieve Local Policy objectives and to help Tackle Climate Change**

Have you or would you consider using LDOs to promote the achievement of local policy objectives, for example to promote renewable energy development or to increase flood resilience? Please explain your view about the potential of LDOs to operate in this way, in the comment box below.	
<input checked="" type="checkbox"/>	Could be a means of promoting more sustainable development by building it in as a condition of the LDO, thereby offering the developer the choice of a certain approval or submitting a planning application with no definite outcome.
<input type="checkbox"/>	The current GPDO provides for domestic renewable energy works. Commercial development has to comply with the Building Regulation requirements which are likely to be increased to zero carbon in the next few years. It is unclear as to the meaning of flood resilience as PPS 25 is quite clear about a more positive approach to prevent inappropriate development in the flood plain. There is reference to managing appropriate flood defence infrastructure, but in this area notwithstanding there is "adequate" flood defence the advice from the Environment Agency is for no further development. If there is to be no further development there is no need for any further flood defence works.
<input checked="" type="checkbox"/>	Yes, for both these areas and for preventing inappropriate development in heritage areas.
<input type="checkbox"/>	The Council in principle would like to promote the use of renewable energy through LDOs. However, potential concern about visual impact etc means that the added value would need to be significant and the extent of additional permitted development would need to be limited.
<input type="checkbox"/>	No - can't justify resources required.



**Table 3.4 (continued) Local Authority views on the potential of LDOs to Achieve Local Policy objectives and to help Tackle Climate Change**

**Have you or would you consider using LDOs to promote the achievement of local policy objectives, for example to promote renewable energy development or to increase flood resilience? Please explain your view about the potential of LDOs to operate in this way, in the comment box below.**

- Increasing flood resilience is a key priority for Tamworth being at the confluence of 2 river systems. Hence if LDO's could be used to achieve this purpose it would be worth further consideration
- Has potential to complement policies of the Local Development Framework but do not consider it should compete with it. LDF will include area policies and allocations and be accompanied by detailed design etc guidance, and will promote Development Management approach. The LDF therefore will introduce detailed supporting guidance and promote use of renewable energy etc through it.
- Would make life easier for Film and TV Production, thereby promoting this local industry

### 3.3 Interviews with Stakeholders and Submissions

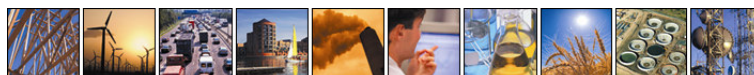
The project included telephone interviews/discussions as a method of garnering stakeholder views on LDOs. These were divided between local planning authorities, planning system 'users' (businesses, developers, applicants) and national stakeholders (national policy bodies, representative organisations etc). The results of these are set out below.

#### 3.3.1 Views of Local Planning Authorities

The intention was to select local planning authorities for interview from a range of responses to the online survey. Owing to the small number of responses to the survey, this approach was augmented with interviews of local authorities where LDOs are known to be being considered either formally or informally.

A number of interviews were conducted with Local Planning Authorities between 5<sup>th</sup> and 24<sup>th</sup> March 2009. In addition to the Local Planning Authorities detailed below the interviewer spoke to other authorities but either there was a lack of knowledge of the subject or they were reluctant to offer comment. What is apparent is that only those officers at the most senior level appear to be in a position to offer constructive comment. As far as has been possible the interviews have been undertaken using the same format although it has been necessary to adapt this due to individual's differing experience and knowledge.

It is considered that in particular circumstances they can be a potent planning tool but the circumstances where this might be the case are very specific.



## 3.3.2 Key Points made by LPAs

### LDO Awareness and Attitude

Knowledge of LDOs amongst even amongst senior planners appears to be limited and is basically sceptical of the usefulness of LDOs beyond a limited number of circumstances. Responsibility lies with Government to promote their use and exemplify their potential.

### Member Views

In many local authorities, local members are concerned more with a perceived lack of planning controls. A further relaxation through an LDO (as it might be seen) would not meet with their support. However, some LPAs have said that no political conflicts are apparent and members are completely supportive of the LDO process. This is mostly where there is a clear local objective it is helping to achieve or problem it is seeking to solve.

### Resources and Priorities

In the main, local authorities have significant other short to medium term priorities. Resources, freed up by reductions in development control caseloads as a result of the economic downturn, are being put into LDF preparation, or else are being 'saved'. Some local authorities have highlighted the potential loss of planning fee income from LDOs as a concern. Others have said the significance of the loss of fee income would not give rise to concerns.

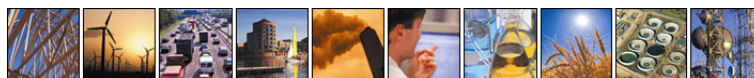
Of more universal concern are LDO preparation costs, which many think LPAs are ill-equipped to finance. Many say that funding would need to be available, potentially at 100%, to encourage LPAs to commit to developing LDO pilots. Even if successful, these are unlikely to encourage wide take-up of LDOs.

Some form of financial incentive could be geared to achieving a reduction in the number of minor and domestic applications. However, this would be difficult to apply equitably given the number of authorities with large numbers of conservation areas etc where tighter restrictions apply and would presumably have to continue.

Some LPAs are sceptical of the theoretical reduction in workload arising from LDOs. Instead, they think it likely that these will be outweighed by an increase in correspondence as property owners, solicitors etc seek confirmation that planning permission is not required by virtue of the LDO.

### LDO Potential

Some local authorities are considering how they might use an LDO to address specific local issues, such as the performance of their town centre or the management of a particularly complex development which generates serial planning applications. More local authorities felt that LDOs could, in particular circumstances, be useful in



industrial areas and business parks. Others have said that, whilst in principle the use of LDOs would be acceptable, in practice they will provide little benefit.

Some LPAs have drawn parallels with Simplified Planning Zones, where similar approaches to LDOs have been attempted. Experience is that the landlords have effectively ensured compliance by policing the SPZ themselves and there are relatively few complaints. In addition, they have stronger policies on certain matters eg landscaping and require a higher standard than may otherwise be required. LDOs could be a practical alternative to a SPZ which allows for specified development to be undertaken without the need for planning permission.

Some local authorities feel that LDOs would not be appropriate to residential areas where it is felt that the GPDO is already 'too generous' with regard to the development that can be constructed as Permitted Development.

On town centres, consideration may be given to making an LDO extend permitted development rights to cover all uses with an active frontage. Another potential area in which to promote LDOs would be focused on Town or Parish Councils with decision making powers in respect of a particular town or village. An LDO could 'relax' control over certain development which is in conformity with an agreed plan. This would be undertaken through a process of Supplementary Planning Documents or Village Design Statements. This would be intended as a means of empowering Town and Parish Councils and would be most appropriate where there is a robust policy basis.

In general, local authorities think that there is little scope for an LDO in rural areas. In many rural areas, but particularly in Areas of Outstanding Natural Beauty, the character and appearance of new development is carefully managed with members taking an active role through the planning committee. Given the potential for significant impacts from quite small developments on the character of conservation areas, the general pressure on planning from councillors and the public is for greater planning control, which is perceived to be best managed through the individual planning application process.

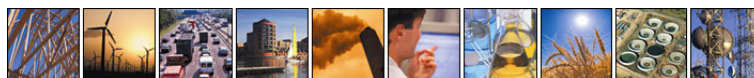
Where authorities are actively considering LDOs, there is a view that the process for preparing an LDO appears to be straightforward and the net additional costs over existing LDF based consultation will be minimal. The flexibility afforded through the LDO if delivered in the form envisaged may be incentive enough to prepare one.

This is a key point, in that it highlights the potential to change views through demonstration, awareness-raising and further guidance.

## Departure from a National Code

The LDO approach differs radically from the development control approaches undertaken in the last 60 years, which is based on considering each case - except very minor ones - on their merits. To many interests- some of which are deeply entrenched - this is acceptable, so there is cultural resistance.

The adoption of an LDO would give rise to the issue of accountability, Currently, complaints regarding Permitted Development can be explained as being in accordance with Government legislation but with an LDO the



accountability would be with the LPA. This is considered to be a further reason why politicians and Chief Officers would be reluctant to adopt LDOs.

There is much to be said in terms of public understanding to having a universal national code of permitted development. There are fears of creating confusion and inconsistent advice which would outweigh the benefits.

## Issues Arising from the Process

There are clearly a variety of views among LPAs about what LDOs can do. Some see it as a policy tool while the others as DC efficiency measure. Clearly views are evolving on LDOs with a clear shift towards using them to promote delivery of policy objectives, without an LDO of any kind yet being prepared.

The LDO approach creates a different kind of development management mechanism. It doesn't sit well next to our existing development control system. They require different skill mixes, but more importantly require different infrastructures. Will LPAs be able to operate both?

It will be important to avoid negative consequences, for example where an LDO unintentionally allows a form of development that might not be acceptable. There will be a need to ensure the wording of a LDO is correct.

### 3.3.3 Views of Planning System users

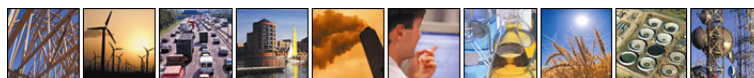
#### Approach

In engaging with applicants, information on the project was sent to the membership via news bulletins of CBI, BRC and BPF. From this and from conversations with representatives of BPF and CBI, contacts in the industry were provided for follow-up.

With regard to universities, potential users of LDOs were identified to participate in this preliminary round of research on their utilisation in the planning system. Universities and hospital sites were deemed appropriate starting points for this, as users with potentially large 'campus' style sites, within which minor developments outside of existing permitted developments rights were likely to be relatively high in number.

A list of over 30 universities was compiled from an internet search for campus universities within the UK. Each University was approached via their Estate Management department via email, which included a link to the PAS website by way of an introduction, a brief outline of LDO's and their potential implications and an outline of the proposed interview.

Following this each estates department was telephoned to ascertain the best placed person to carry out the interview with. Once LDOs had been explained there was unanimous interest in the subject matter, however in most instances it was difficult to get through to the 'best placed' person to discuss. The main issue being, that the



subject matter was completely new to those contacted. Nevertheless, an encouraging level of interest was noted among the few universities with which the researchers did manage to speak.

Below is a summary of views given by individual stakeholder in telephone interviews and written submission. The views given here have been interpreted and summarised by Entec and have not been cleared with the stakeholder concerned. They should not be regarded as a formal view of the organisation concerned.

## University of East Anglia

UEA is considering whether an LDO could help it to achieve its strategic requirements for on-going development of the campus.

UEA is an organisation which operates from a single campus. The campus is exceptionally well known and significant parts of it are listed, which the university resisted at the time this occurred. There was a large concern that listed status would frustrate the university in its pursuit of research and development opportunities, resulting from a reduced ability to deliver new buildings within the time constraints set by funding institutions.

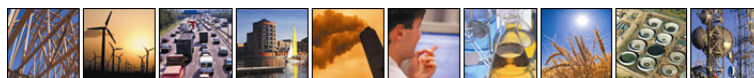
English Heritage held discussions with UEA which resulted in UEA becoming a pilot in a study on heritage management agreements (now in the Heritage Protection Bill as Heritage Partnership Agreements). A Conservation Development Strategy was adopted, which highlighted areas for development. Development in these areas would need to meet particular standards at least equal to building provided in that part of the campus. The strategy applies to the wider campus and is relevant to maintaining standards through the planning process.

The university has already acted to meet its strategic requirements as set out above. It has a number of full planning consents in place for the kinds of buildings (some as large as 7,500 square metres) required in response to the need for swift action to develop facilities to exploit strategic opportunities for research and development as they arise. The downside of this is that it is costly and time-consuming for the university as an applicant and for the local authority as regulator to renew these consents.

The university may raise with the LPA, the possibility of using an LDO mechanism as a 'home' for these permissions, to remove the need for renewals every three years.

## SEGRO (Slough Trading Estate)

SEGRO is the landowner of the Slough Trading Estate. The trading estate became an adopted Simplified Planning Zone in 2004. At the time of adoption, Slough Borough Council indicated that, in time, it might seek to convert the SPZ into an LDO. This process is now underway and essential involves a maintenance of the same provisions contained in the SPZ, which included specified development form, specified class of development, specified area of land. The LDO will provide a blanket planning consent subject to limits and guidance on density, height, landscaping and highways.



The starting position is the SPZ base document – this is in place and already enforced with consent for ten years to 2014. The SPZ does and the LDO will provide for the development of a range of uses and a range of classes including B1c, B1b, B2, B8 and sui generis. The LDO can also accommodate further conditions on development throughout the LDO area, as with the current SPZ.

Currently, there is a S106 condition which provides for various contributions to meet planning obligations.

If landowners have a significant parcel of land and, by effectively engaging with the LPA, they can provide greater certainty over development going forward, then there may be a lot of support for LDOs in the industry. The ability to work closely with the Council in the Slough case has provided wider benefits to the authority area, as the area provides brownfield development opportunities and affords opportunities for speculative development. The arrangement, the benefits of which should be available within the LDO, also affords the opportunity to meet ‘build to suit’ requirements with planning consent in place and conditions agreed.

One negative from a business user viewpoint is the ability for a local authority to revoke an LDO at any time. This could undermine confidence in LDOs as long term development management frameworks in a way that a fixed ten year time period for SPZs does not.

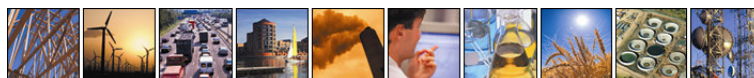
There is a feeling that it should be possible to provide the right environment for LDOs to create right conditions for strategic developments and regeneration. A middle ground needs to be found between the developers, who are seeking certainty for development potential, and local planning authorities, who have concerns over the administrative costs of LDO processes.

## HTA

HTA is a company which is involved in the promotion of Enabled Self Procurement of housing, specifically, an Urban Buzz-funded ‘ESP-sim’ project to enable volume enabled self procurement housing in the UK. Submissions were made to the Killian Pretty Review setting out views on the potential for LDOs.

HTA believe there is a potential to create a hybrid approach to housing provision using LDOs. This is based on the provision of serviced plots, probably by a volume housebuilders or other developers, which can then be built out individually by self-builders. The physical and social infrastructure requirements would be agreed by the volume developer through a Section 106 agreement. They would also agree the environmental standards and urban design framework through a comprehensive design approach involving the specification of a variety of house designs based on the principle of a bespoke pattern-book of designs acceptable on the site. Self-builders would then buy into the development and build to the agreed parameters under an LDO.

HTA say the advantages of this approach over traditional market housing are that they manage the risks better – speculative development means taking a risk in understanding what the market ‘wants’, a risk in what the market will pay for, a risk in what will achieve planning permission, and a risk in construction.



An LDO-based approach would mean that new residents would have stake in the development of the scheme, influencing the design and form of development and ensuring that their views are heard through the LDO process, in contrast to the current situation where the views of incumbent residents only tend to influence planning decisions. This often leads to constraints on housing design and provision which produce housing not fit for purpose and sub-optimal in life time design terms. This approach would ensure both high quality, flexibility and, potentially, housing which is more socially sustainable. Using an LDO approach, LPAs would put themselves on a proactive path to meeting their community housing needs. There would be opportunities to build in affordable housing provision and social housing partners in the same way as at present.

## National Grid plc

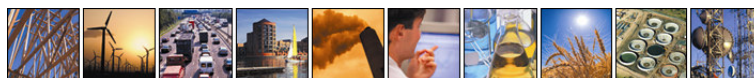
National Grid plc is a group of companies which owns, operates and develops a substantial part of the national gas and electricity transportation systems. National Grid Property Holdings Ltd is the part of the group which manages the Group's extensive estate portfolio. Its main activities are the reclamation and disposal of formerly operational gas and electricity sites and the provision of property services to Group companies to meet their occupational requirements.

National Grid supports the principle of a more proportionate approach to the management of different types of development in the planning process. This can be achieved by the removal of the need to secure planning permission for certain development and, where planning permission is required, to ensure the burden of the application process is reduced to an appropriate level.

National Grid supported Killian-Pretty recommendations to increase permitted development for small scale commercial and other minor non-residential development that are treated as permitted development. It also supported its call to ensure restrictions on permitted development rights at the grant of planning permission are minimised. It supported the potential to expand the prior approval process for non-residential development. Finally, it supported the potential use of LDOs by LPAs to increase permitted development opportunities locally and welcome the prospect of pilots to demonstrate how the process works.

In terms of priorities for action, National Grid thinks that the potential to deliver on increased permitted development rights, to safeguard current rights and to expand prior approval processes should be highest. The scope for LDOs will be limited to specific local circumstances, over and above national permitted development rights. If the Government decides not to pursue the first three options,, then the scope for LDOs may grow. At present, this is not clear.

The main drawback with LDOs at present is that they are untried and unfamiliar. The removal of the need to tie an LDO to adopted development plan documents should remove barriers to LPAs making LDOs. However, LPA reluctance to relinquish control will probably remain and could be difficult to address. The best scope for LDOs may be on large scale, self-contained developments which would allow the LDO to be introduced with supporting guidance such as a design code. Another good situation would be the introduction of an LDO on a campus or estate-form of development, which would allow for greater flexibility. The effect of LDOs on customers will be a



function of the scale and breadth of the development permitted by the LDO and the area of which it applies. LDOs have the potential to reduce costs, time spent and uncertainty for customers in the planning process.

As indicated above, Pilot LDOs would help to draw out good practice and inform further guidance based on experience. Financial incentives may be needed to encourage LPAs to dedicate the resources required to introduce LDOs and replace potential income which may be lost following their introduction. The Housing and Planning Delivery Grant could be used.

### 3.3.4 Views of Other Planning System Stakeholders

A range of planning system stakeholders were sent a note about the project and asked a series of research questions. These occurred primarily via the National Planning Forum email bulletin. In addition, some stakeholders were approached directly for their views in follow-up. What followed was a mixture of interviews, general conversations and written inputs to the project.

#### British Property Federation

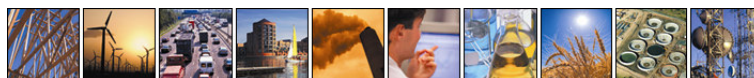
The starting point for a consideration of the value of LDOs from the viewpoint of the BPF is to, before getting into LDOs, ask a more basic question about whether there is agreement that reforms to permitted development rights have gone far enough. Could they go further to cover areas that we otherwise might feel LDOs should address?

Notwithstanding this, in general the principle of an LDO is an acceptable one. However, there is some doubt among BPF members that local authorities possess the interest or capacity to develop LDOs. There is some confusion over the advantages of an LDO over a SPZ, which might relate to the scale of development envisaged. LDOs would need to be used in a strategic way and not restricted to only small-scale developments.

The BPF see the LDO process as overly onerous and complex. It could see local authorities being put off entering into the preparation of an LDO by the requirements of the process. It can see no justification for the Secretary of State's consent regime over the adoption of an LDO, which could usefully be removed. Additionally, annual reporting requirements are perceived to be onerous and difficult, and likely to put off local authorities.

BPF sees some parallels with Planning Performance Agreements. Local authorities are not widely offering PPAs unless developers are forceful in requesting them. PPAs, and LDOs, require a big up-front investment which is not directly incentivised. Some form of incentives could stimulate local authorities into preparing LDOs, for example through Housing and Planning Delivery Grant.

A further challenge will be to overcome a predisposition of local authorities not to enter into new arrangements which challenge their own ways of working. Again, this has parallels with PPAs, where concerns over probity and to living up to the commitments of the PPA make authorities wary of entering into agreements.



Therefore, prior to a big push to improve LDO take-up, it is important to understand why they are not more popular. If these things are understood and LDOs are seen to be necessary, then they should be promoted much more actively by Government.

Finally, it was noted that little is done to ensure planning agents and consultants take on new ideas. The focus is normally on the developer or landowner whereas in reality, they rely almost entirely on the advice of their planning consultants/agents. What efforts are made to improve awareness and commitment to use new tools such as LDOs and Planning Performance Agreements among consultants?

## **British Chambers of Commerce and Industry**

Generally, there is a very low level of awareness among BCCI members of the recent reforms to permitted development rights or of LDOs. Generally, BCCI think that there is significant potential for an extension of permitted development rights, most importantly for its members on minor changes to their commercial property, but equally on householder or micro-generation changes which currently take up too much of planner's limited time and capacity.

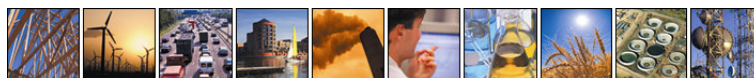
Given the difficulties which local authorities have had agreeing their Local Development Frameworks and documents, the removal of requirement for LDOs to be adopted with reference to adopted development plans is significant. This should at least free up local authorities not pursuing LDOs for this reason.

As a representative business organisation BCCI do not devote resources to applications, however business members do raise their frustrations with the time, bureaucracy and cost implications of planning applications that seem to bear no relation to their size or importance.

Aside from the Local Development Document restriction, BCCI would think that local authorities have not pursued LDOs because they have not been adequately directed, incentivised or encouraged to do so. With so many other competing demands on planning departments' time, levels of awareness and willingness to experiment with new measures have inevitably been limited.

LDOs have the potential to take a wealth of local minor changes to properties out of the planning process, with the associated benefits of freeing up planners' time to spend on important strategic projects and reducing the current time and cost burden imposed on businesses. There are also potential economic, environmental and social benefits that could result from enabling organisations to make small changes to their premises without having to go through the planning process.

Use of this new mechanism could result in claims from interested parties that their interests are being over-ridden, there will be a need for clear communication as to the purpose of LDOs and how they will be used to increase understanding of this measure.



Incentives and active encouragement of usages of LDOs will be needed to really drive-up their usage by LPAs. The Housing and Planning Delivery Grant could be used as a reward for such activity alongside clear government guidance that LPAs using these mechanisms will be supported.

BCCI would not necessarily want the use of LDOs to be limited, however business parks would seem particularly suitable for LDOs (as any objections would be extremely limited). Usage by train stations, universities, airports, town centres, renewable energy and waste and minerals would all yield significant potential economic benefits. BCCI can see no special need for a time limit restriction on LDOs.

LDOs could particularly enable development in regeneration areas much more quickly than would otherwise be the case, allowing projects to be planned with a much greater degree of certainty. Any LDOs with an economic development focus in the current recessionary climate would be particularly welcome.

## **Commission for Architecture in Built Environment**

CABE view the circumstances where LDOs might be most useful as in the widening of permitted development rights for specific areas or sites and on large/major sites with master plans or regeneration objectives. The potential benefits arising are the possibility of speeding up development and incentivising development, particularly if ahead of a LDF core strategy.

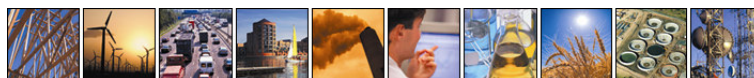
Risks are evident with the LDO process. In particular, the monitoring of implementation presents risks and will influence the degree of control exerted within the LDO over the form of development. There is also a risk over the level of community engagement on the LDO, which could affect community buy-in for the LDO and its provisions.

Customers may have different responses to LDOs. Applicants in the planning system who benefit from LDOs will could save time and cost. The wider community may also receive any benefits from development more quickly. However, the public more generally but especially those who consider themselves affected by new development under LDOs, might perceive that LDOs are short-cutting the planning system and reducing their rights to submit views on applications.

## **Town and Country Planning Association**

The TCPA recommends that Design Codes are used with LDOs as a key development management mechanism. It's 'Putting Planning First' document has advocated the use of codes similar to LDOs for some time. It sees them as potentially best and most effective when serving a series of coherent developments within a site or area, in particular where the LPA wishes to ensure a coherent and high quality approach to architecture and urban design. Also, LDOs could be effective in managing particular types of development or infrastructure. However, action is needed to demonstrate to LPAs the benefits LDOs can bring by speeding up delivery of high quality developments.

Action is also needed to exemplify the opportunities arising from LDOs. A particular opportunity is the use of LDOs to promote certain types of renewable energy technology and infrastructure, for example district heating



schemes. Currently the consents process for such schemes is complex and lengthy. Others include development within an area or site master plan, and new developments within designated Conservation Areas or Special Character Areas.

TCPA also thinks that LDOs can be used to promote wider policy objectives, for example to promote development which achieves high environmental standards under the Code for Sustainable Homes. A programme of pilots is needed to provide a framework for demonstrating how benefits from LDOs can be secured and to show LPAs how they can minimise the risks they foresee from LDOs.

## **Council for the Protection of Rural England**

In its responding to the Killian Pretty Review on the role of LDOs, CPRE suggested that LDOs may only have potential value in a very limited range of specific cases, as opposed to permitting types of development across an area without regard to individual circumstances. In responding to our call for submission, CPRE reiterated that it would like to see the Government and local authorities carry out pilot studies to test the feasibility of this idea. In CPRE's view, such cases would be where development (i) was set to be agreed through the development plan process and that had an express objective to pursue the public interest, in particular development by charities or Community Land Trusts; (ii) directly contributed to sustainable development objectives such as making best use of brownfield land; and (iii) did not require Environmental Impact Assessment. In such cases, combining the development plan allocation and planning application stages in the form of an LDO could provide an active incentive for community-led and sustainable development through reducing the time and costs involved in the planning process.

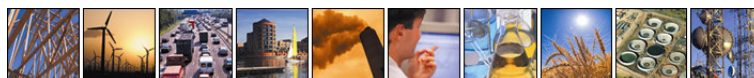
## **Health and Safety Executive**

HSE is not familiar with LDOs. A concern would be that if LPAs make an LDO, they would need to consider public safety if the LDO related to an area where there is a major hazard installation. They would need to ensure there would not be an increase in the number of people/introduction of a vulnerable population in the vicinity of a major hazard.

Increased minor development around a major hazard site could result in a significant increase in the overall population around the major hazard site over a period of time. Due to it being regarded as minor development and reflected in the LDO presumably HSE would not have been consulted. Lots of minor development can result in a significant major development. LPAs should be fully aware of the major hazards in their region and should identify them in their Local Development plans.

## **Environmental Services Association**

ESA considers there to be considerable benefits associated with LDOs and believes these should be extended to include the development associated with the waste and secondary resource management. ESA Members are often required to submit planning applications for minor alterations to existing facilities often in response to direction



from the regulatory agencies. For example, the installation of spray masts may be required on an existing facility in response to changes to the Environment Agency's permitting regime, or HM Revenue and Customs may request the installation of a weighbridge to ensure better data reporting for landfill tax purposes.

The developments ESA believes should benefit from permitted development rights (PDR) share the following characteristics:

- They have no impact beyond the site boundary: for example, they will not lead to additional transport movements;
- They are all minor, uncontroversial and highly likely to be approved; and
- They enable the industry quickly to improve the management and performance of a facility and, in some cases, reduce its impact.

PDRs should therefore not erode the community's confidence in the land-use planning process.

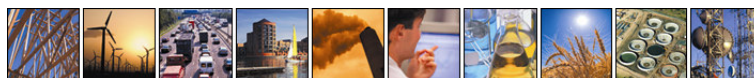
In addition, many local authorities do not require an application for some of the developments the ESA considers should benefit from PDR and proposals would therefore deliver greater consistency across the country. By extending PDRs to such development, significant resources would be liberated in shifting the burden on developers and planning authorities from minor, non-controversial development to delivering development essential for the UK to achieve its Waste Strategy 2007 targets and compliance with EU waste law.

In order to maximise the benefit of extending PDRs to the waste management sector, the ESA believes such planning applications should remain within the statutory framework which specifies planning authorities' determination period. Planning authorities could otherwise concentrate resources on larger, more complex and time consuming applications at the expense of applications for minor development.

Cultural barriers within planning authorities need to be addressed if the benefits of LDOs are to be realised. Greater use of PDR may be perceived by some planning officers as "relinquishing control" of the planning process in which planning authorities could become less accountable to local communities. As demonstrated above, this is not the case, as PDR would be limited to minor, uncontroversial development which would have no impacts beyond the curtilage of existing sites.

## 3.4 Conclusions on Stakeholder Views

Stakeholders have expressed a wide range of views about the potential for LDOs. Local Authorities have been least supportive of the principles and practicalities of LDOs, whilst business users have tended to see LDOs in a more positive light. National planning stakeholders appear to see most potential for LDOs, expanding their original intention to cover wider ranges of development and achievement of spatial planning objectives. The use of an LDO as a proactive tool to secure policy objectives by 'pre-granting' permission for the sorts of developments we want to see' is particularly notable.



Clearly, the response from local authorities to the survey and interviews demonstrates a fairly low level of interest in developing LDOs currently. There are largely negative views about the potential for LDOs, the preparation costs, the perceived benefits, the risks involved and member reactions. However, views such as this are often expressed from an acknowledged low knowledge-base and are accompanied with a suggestion that more information and leadership from Government, and more action to address the perceived financial constraints on developing LDOs, might help to improve that view. In principle, many local authorities can see a benefit from LDOs.

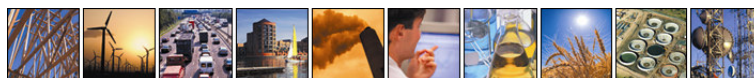
This is in contrast to the few places where local authorities are giving LDOs more active consideration. These are sometimes places where there may either a clear problem to address or a strategic opportunity to exploit, with which they consider an LDO might assist. Perhaps allied to, and a part of, existing development plan processes, or with a clear partner in mind, or an obvious area it could apply to, LDOs are viewed more positively, their processes viewed with less concern and the financial costs seen as part of a larger whole of development plan preparation. Making this a more common occurrence is where the hope for a greater acceptance and more positive view and use of LDOs may lie.

Resources are clearly an important concern. There is no doubt that LDOs will require some specific expenditure on their preparation, which could be significant depending on their scale and complexity. Local authority and other stakeholders view this as a significant obstacle to LDO preparation locally and would like to see some action by Government to overcome this.

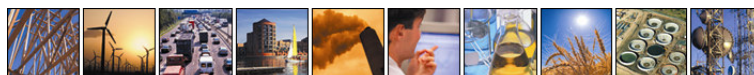
Businesses can clearly see potential benefits from LDOs. For them, the potential rests on the ability to work in partnership with local authorities around a shared objective to achieve or manage change effectively and efficiently, or to achieve more strategic objectives through providing flexibility for development against an agreed framework. A concern of businesses is over the ability of local authorities to resource LDOs and specifically over the potential for authorities to revoke LDOs at any time, which could undermine confidence in the long term solidity of LDO arrangements.

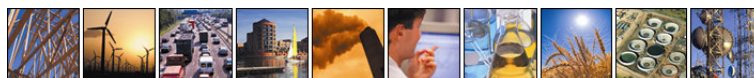
Business stakeholders, representing the interests of businesses are on the whole positive about LDOs, but would place them behind further extensions of national permitted development rights and greater use of prior approval processes in terms of priority. There is also some concern or scepticism over the ability of local authorities to enter into or live up to their commitments under LDOs which might discourage authorities from entering into LDO processes in the first place. Generally, any opportunities to demonstrate the benefits of LDOs, to overcome obstacles to their preparation (such as resource constraints) and to make the process more amenable (for example by removing the need for the consent of the Secretary of State) should be taken, with the Government taking the lead role. A specific focus should also be given to promoting LDOs to planning consultants who represent their business clients on planning matters.

Other national stakeholders have mixed views about LDOs, but generally have identified a wider template of uses to which LDOs could be put. Some have developed a more aspirational view of the potential of LDOs to help achieve important policy objectives.



Overall, there is clearly a job to do to demonstrate the benefits and practical parameters of LDOs. The current knowledge base is fairly poor and supporting a few pioneers could yield significant benefits in terms of widening understanding of LDOs.





## 4. The LDO Process

### 4.1 Introduction

The process governing the preparation and implementation of Local Development Orders is set out in guidance contained in DCLG Circular 01/2006 'Guidance on Changes to the Development Control System'. This came into force on 10 May 2006. The Circular established the key components of the LDO process which must be followed by local planning authorities.

### 4.2 Elements of the Process

#### Identify a problem or an opportunity to be tackled by the LDO

LDOs may have the best chance of being developed where there is a clear problem to solve, or opportunity to exploit, which incentivises local authorities and their members to take a risk (as LDOs are currently viewed by LPAs) in preparing one. These will be the early adopters. Otherwise, LPAs are generally focused on delivering LDFs and improving development management performance and may otherwise have little reason or resource to develop new planning approaches through LDOs.

The Circular places heavy emphasis on the LDO being established to implement the policies contained in an adopted Development Plan Document. The Planning Act 2008 removes this requirement. The purpose of this reform has been to allow LPAs to adopt LDOs when many have not yet progressed their LDFs to adoption.

Even so, where possible, LDOs should be linked to the achievement of development plan policies. There is strong support for the development of LDOs in the context of or in parallel with local development plans. LDOs will work best when there is a clear link between the LDO and development plan policies. This is because the development plan suite of documents are adopted by local authorities as the key spatial strategy to implement community objectives. It provides the basis for integrated action to deliver a range of key priorities and the basis for implementation through development in the planning system. An LDO is therefore primarily an implementation-based tool. Greater support for an LDO will be secured when it is judged to be implementing agreed policies adopted by the community.

#### Informally consult with interested parties

A fundamental principle of LDOs should be that they represent a partnership approach to development management in some circumstances. How close that is will depend on the LDO situation. Some LDOs may be geared to achieving a specific change across a wide area whilst others may be focused on specific sites, their owners and developers in specific contexts. Each will require an approach to consultation which garners support for



the concept of the LDO and its objectives, both among the direct participants and wider stakeholders. Whilst no longer a requirement, a clear link to the achievement of agreed policies and objectives will aid this process.

When adopted, on-going benefits from LDOs could accrue to landowners and developers who no longer need to prepare and submit planning applications for certain types of development. Informal consultation at the outset presents an opportunity for LPAs to discuss the potential to share the costs of preparing the LDO and in particular arrangements for EIA.

## **Identify the Developments to be Permitted by the LDO**

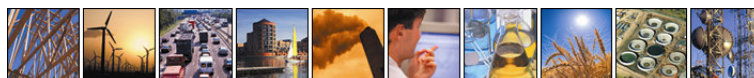
The Circular makes clear that LDOs can operate at a variety of scales and can be made to achieve a variety of objectives. The Circular is open on the mechanism that should be used to specify development in the LDO. Specific developments or specified classes of development can be used. In this way, LDOs could be used to achieve a wide variety of objectives and promote a wide variety of behaviour by developers to achieve community, planning, environmental or regeneration objectives.

## **Identify the Area to which the LDO Applies**

Similarly, the geographical area over which an LDO can apply is also wide. In theory, an LDO could apply across an entire authority area, to a specific single development, or a range of areas in between. The Circular says the area must be specifically identified on a plan.

Local authorities will need to carefully consider the geographical scale of their LDOs, as this will have a direct relationship with the level of detail and specificity which can be included in the LDO, affecting the type of development which can be permitted through the LDO.

LPAs will also need to consider the relationship of the scale of LDO with the quantum of development which might be permitted through it, its type and the significance in EIA scoping terms.



## Box 5 Types of Development/Site Suitable for an LDO

In order to demonstrate their potential, the 2003 study attempted to define the range of situations in which a LDO could be made, as set out below.

- All land in the area of the relevant authority - Local Authority-wide LDOs could only really deal with relatively minor matters. An LDO of this type would have to be written in such a way that it covered all possible eventualities for a particular type of development within the entire area of the authority.
- Any part of land in the area of the relevant authority. Local authorities would be able to determine what policies it would like to implement using LDOs. Examples given included:
  - Change of use in town centres/specified shopping parades to encourage the '24 hour urban culture'. This could permit change of use from financial services to food and drink or office office/business to residential
  - Change of use to allow development or extension of certain types of waste management facilities in industrial areas
  - Provision of facilities required for the management and/or enhancement of sensitive areas
- A site specified in the order - LDOs could be used to facilitate the implementation of clear policy intentions for specific areas of land or individual sites. This could include flagship development to stimulate regeneration, to bring forward a difficult site or to ensure a particular style of design for an area. In these circumstances, an LDO would be most effective when linked to prescriptive conditions setting out exactly what would and would not be acceptable. It was suggested that the conditions could require developments to be carried out in accordance with design guidance or a masterplan.

Source: Land Use Consultants and Wilbraham, 'Formulation of Guidance on the use of LDOs' (ODPM) 2003

## Specify what is Included or Excluded from the LDO Provisions

In making an LDO, a local planning authority can also identify specific exemptions/exceptions which will not be subject to LDO permitted development – again, this could include a specific building or area within the LDO area.

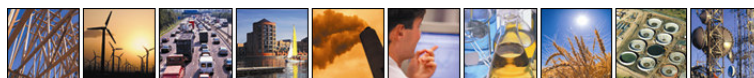
The Circular 1/2006 states that a number of statutory restrictions apply to the types of development permitted by LDOs, including:

- Developments affecting listed buildings;
- Development likely to have a significant effect on European sites Within the meaning of regulation 10 of The Conservation (Natural Habitats, &c.) Regulations 1994 – “the Habitats Regulations; and
- Developments specified in Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (“the EIA Regulations”).

Though Schedule 1 developments are therefore excluded from the LDO process, the Circular further notes that developments listed under Schedule 2 are “not necessarily prohibited”, but that such developments can only be permitted via the LDO process “subject to compliance with EIA requirements”.

## Identify the Supporting Framework for the LDO

LDOs will be formed from a consideration of development type and scale, geographical scale. LPAs will need to exercise judgement in defining the level of detailed guidance contained in an LDO on the development to be permitted in the LDO area. For example, LDOs applying across an entire local authority area will most likely need



to be fairly limited in scope, easy to interpret, monitor and enforce. LDOs at this scale could be geared toward achieving a policy objective through many small developments.

Whereas, LDOs identified to cover specific sites could have securing comprehensive development as a key objective. Here, the LDO might be very specific on the design and detail of developments within the LDO area, notwithstanding the flexibility that should be allowed within an LDO to allow the full benefits to users to be achieved.

Local authorities appear to be uncertain about the level of detail required for LDOs. Some have indicated that a great amount of detail would be required to achieve the level of certainty they feel is needed and to avoid an increase in enforcement activity as a result of developments proceeding under LDOs but outside their rules.

Clearly, only through preparation of LDOs can experience yield valuable lessons as to what works best. However, some pointers to possible good practice approaches are evident from views given in the course of this project. These would involve, in developing the LDO, striking the right balance between the LDO and S106 planning obligations, planning conditions, supporting guidance and other agreements.

LDOs might therefore be viewed in some circumstances as a framework which can comprise a range of other supporting tools. Together, they could provide the appropriate level of guidance and secure the appropriate level of certainty over delivery of key planning outcomes.

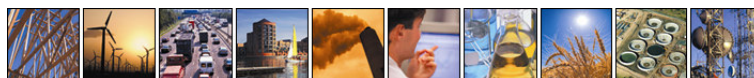
Clearly, timescales and resources for the preparation of supporting documents will need to be built into the overall LDO process.

## **Provide a Clear and Concise 'Statement of Reasons'**

The Circular says that LPAs should prepare a concise statement justifying why the LDO should be made including:

- A description of the development which would be permitted;
- A statement of the policies which the LDO would implement;
- A plan or statement identifying the land to which the LDO would apply.

Whilst the 2008 Act removes the need to clearly link LDOs to the achievement of local policies, clearly, it would be good practice to provide a strong link to agreed policies, objectives and priorities in providing reasons, where possible. Other benefits from the LDO may be apparent, such as the ability to provide flexibility for developers, or greater efficiency in managing developments which are similar and occur regularly, with benefits to both the planning authority and the applicant. These may not have a development plan policy context, but could nevertheless be important reasons for making an LDO.



## Scope for EIA

As previously stated, one of the original aims of LDOs was to manage small-scale changes and minor developments in local authority areas. In most cases, developments such as these will fall outside the threshold for Schedule 2 developments and will not require EIA. There may be instances however, particularly for developments associated with complexes such as university or hospital campuses, where the cumulative effect of all the proposed development within the area specified in LDO could as a whole constitute EIA development under Schedule 2, as stated in Circular 02/1999, *Environmental Impact Assessment*:

*‘For the purposes of determining whether EIA is required, a particular planning application should not be considered in isolation if, in reality, it is properly to be regarded as an integral part of an inevitably more substantial development. In such cases, the need for EIA (including the applicability of any indicative thresholds) must be considered in respect of the total development’.*

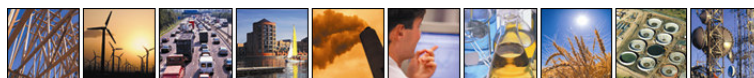
The Circular requires LDO-development to be EIA-compliant. Local authorities making an LDO are in effect granting planning permission for potentially all developments within the LDO area specified by the order (subject to any exceptions or limits that may be put in place). Therefore, depending on the type of developments permitted by the LDO, the developments permitted may individually or cumulatively be significant in EIA terms. It may therefore be necessary for Local Planning Authorities to scope for EIA significance.

Clearly, EIA scoping involving the collection of baseline information can be an expensive exercise. However, depending on the developments to be permitted and their cumulative significance, it might be possible to scope out many if not all issues associated with impacts arising from the LDO-permitted development.

It will nevertheless be important for local planning authorities to ensure that developers take on the costs of EIA where possible and appropriate. This emphasises the importance of a partnership-based approach to LDOs based on early informal consultation, so that the benefits of the LDO to developers is recognised and the necessity of investment upfront in EIA-related studies is accepted.

The amended EIA Regulations, 2006 (Statutory Instrument No. 3295) provide the procedure by which an LDO can be made in respect of Schedule 2 development. This procedure is much the same as for any non-LDO development, whereby the development is first ‘screened’ to confirm whether it is EIA development via a screening opinion from the local planning authority (LPA). If it is deemed that the development requires an EIA, then the developer (where confirmed) should ask the LPA for their formal ‘scoping opinion’ on the information to be supplied within the Environmental Statement (ES). If a developer has not been confirmed, then the LPA may need to scope the content of the ES and meet the costs of carrying out the EIA themselves.

The LPA must take the information contained within the ES into consideration before progressing with the LDO. Following the statutory determination period (minimum 16 weeks), during which the ES must be circulated to the relevant statutory bodies and stakeholders, should it wish to grant permission for the development via the LDO process, the LPA must then submit two copies of the draft LDO and environmental statement to the Secretary of



State for approval. The LPA is then required to delay adoption of the LDO until the expiry of 21 days from the last date on which a copy of the statement was sent to the Secretary of State.

## Prepare the Draft LDO

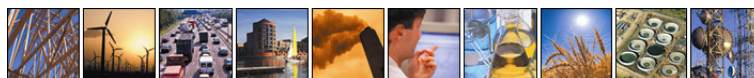
The draft LDO will provide a clear explanation of the purpose of the LDO, the development to be included within the LDO and the area to which it applies. It will also contain, or cross-refer through conditions, to all of the ingredients that will make it work. This could include a range of conditions, agreements and guidance.

- LDO – The LDO itself would provide the rationale for the action being taken, delineate the area to which it applies and specify the developments to be permitted by the LDO. Importantly, it might also list specific and general exceptions to this rule. It might also set conditions on the development permitted by the LDO, which must be satisfied before, during and after development is commenced;
- Conditions – A range of planning conditions can be attached to an LDO in the same way that they are attached to a planning permission. Conditions could be used to set important requirements for compliance with other guidance such as that contained within supplementary planning documents and design codes. Through appropriate conditions of this nature and suitable detailed design guidance, it could be possible to ensure compliance with appropriate environmental building standards;
- Section 106 agreements – in return for permission to develop within the parameters of the LDO, it may well be appropriate to agree a Section 106 planning obligations. This will work particularly well where there is a single developer and development may occur serially over a long period of time. There could be advantages to both authority and developer in agreeing specific obligations and recognising the need for infrastructure provision, drawn from an appreciation of the overall amount of development likely to occur within the LDO area instead of a piecemeal approach over a long period of time;
- Specific actions – the LDO should be able to require specific actions by developers in order to qualify for permitted development status under the LDO. For example, this could create safeguards for the LPA in terms of appropriate information provision before development commences. Other requirements could include consultation and agreement by other interested parties and stakeholders to certain matters specified in the LDO.

## Formal Consultation on LDO

The Circular sets out a number of LDO consultation requirements which include:

- Compliance with the publicity and consultation requirements as required for the production of a DPD;
- Consultation should include anybody who would have been a statutory consultee for an application for planning permission for the development in question;
- Consultation with CABE where an LDO is intended to cover important design issues for significant sites or areas;



- Information to be provided to consultees - a copy of the draft LDO and a copy of the statement of reason;
- Consultees must be provided with at least 28 days to send comments. The LDO must not be adopted within this consultation time;
- All draft LDOs and their statements of reason must be placed on a new Part III (Section 1) of the planning register at the same time as they are sent to consultees.

Consultation on LDOs will need to be approached carefully, but imaginatively. Presented the wrong way, LDOs might be unpopular on the basis that some developments are seen to be given preferred status. Also, few developments which are permitted by LDOs are likely to be completely free of any impacts, and these have the potential to be raised by individuals and/or the local media. It is also possible that people will not understand what LDOs are, what they will do, or why. LDOs are a new and different mechanism which recognises difference in a system which has traditionally been seen to be uniform.

There is a potential however to promote LDOs in a positive way through consultation and in so doing create a positive environment for LDOs. This will depend in part on the context in which LDOs are being presented. There are clear reasons to create LDOs to implement important policy objectives or to create the right conditions for regeneration where it is needed. It is imperative for LDOs which have this role to be founded on full community involvement through preparation in a way which shapes the LDO and promotes wider ownership. There is the potential to secure community engagement benefits in this way.

Local authorities will therefore need to create strategies to communicate the purposes and working arrangements for their LDOs. This will involve ensuring that their press teams and publicity officers are well briefed and they in turn brief key stakeholders in the local press and interest groups.

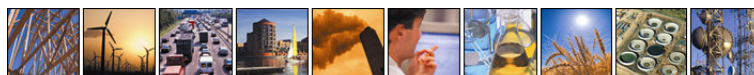
Council members also need to be briefed and supportive of the LDO and be proactive in communicating and consulting on the Draft LDO.

## Consult Secretary of State

Before adopting an LDO, the LPA must send a copy of the draft LDO and statement of case to the Secretary of State. The authority must not adopt the LDO, before receiving confirmation that the SoS intends to make a direction under section 61B (1) of the 1990 Act; or 21 days have passed without notification of this or notification that the SoS requires more time.

## Adopt the LDO

The circular requires local planning authorities to adopt LDOs. In most cases, LDOs will need to be considered by the full council. The LDF is a strategy agreed by the full council and LDOs are a key policy/implementation document related to the LDF. Clearly, it will be important to carefully consider the development management



impacts of the LDO on both the council as a service provider and regulator, the developer as applicant and the general public as those potentially affected by the developments permitted by the LDO.

## Place the LDO on the Planning Register

The Circular says that all draft LDOs and their Statements of Reasons must be placed on a new Part III (Section 2) of the Planning Register. The register will contain all LDOs in force, all LDOs once in force but revoked, and all LDOs for which preparation started (reaching at least Statement of Reasons stage) but which have not yet been adopted, or on which work has stopped. LDOs must be placed on the register within 14 days of the date they are adopted.

## Prepare Annual Monitoring Report

The Circular requires a LPA to prepare an Annual Report on the implementation of the LDO. This is intended to provide a mechanism to report on the impact the LDO is having on development plan policies intended to be implemented through the LDO. It may also report on benefits arising to customers and effects of development on the environment, perhaps including matters relating to developer performance under the LDO. The report is intended to be published as part of the LPA Annual Monitoring Reports.

## Enforcement Arrangements

The Circular says that failure to comply with a condition attached to an LDO will be enforceable by the LPA in the normal way. Clearly, local authorities will need to ensure that the specification of development permitted through the LDO is sufficient to provide authorities and developers with clear rules. Design guidance produced and attached to the LDO needs to be sufficiently detailed so as to allow for a clear interpretation of what is allowed under the LDO. However, care needs to be taken not to 'over-specify' the LDO and any associated guidance, which could remove flexibility which is a key potential benefit of LDOs. The specificity of guidance and conditions will depend on the circumstances of the LDO and the type of development involved.

## When to Amend or Revoke the LDO.

The Circular says that a LPA may revise or revoke an LDO at any time. Clearly, LDOs should not be entered into lightly and it is unlikely that local authorities would do so. The terms of an LDO should be clearly expressed, so that developers know whether the LDO is a medium or long term commitment (it should not be short term). Investment in an LDO from developers, perhaps supporting the financial costs of its development and funding EIA related studies if required, are a potentially significant investment. There will be concerns over the possibility of amendment or revocation of LDOs. Perhaps the establishment of LDOs should be accompanied by clear performance objectives so that the 'terms' of the LDOs continued operation are clear for all to see. Figure 1 demonstrates how EIA relates to the LDO process, including timescales.

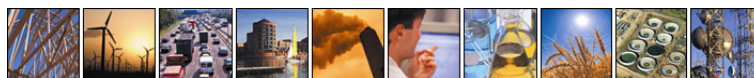
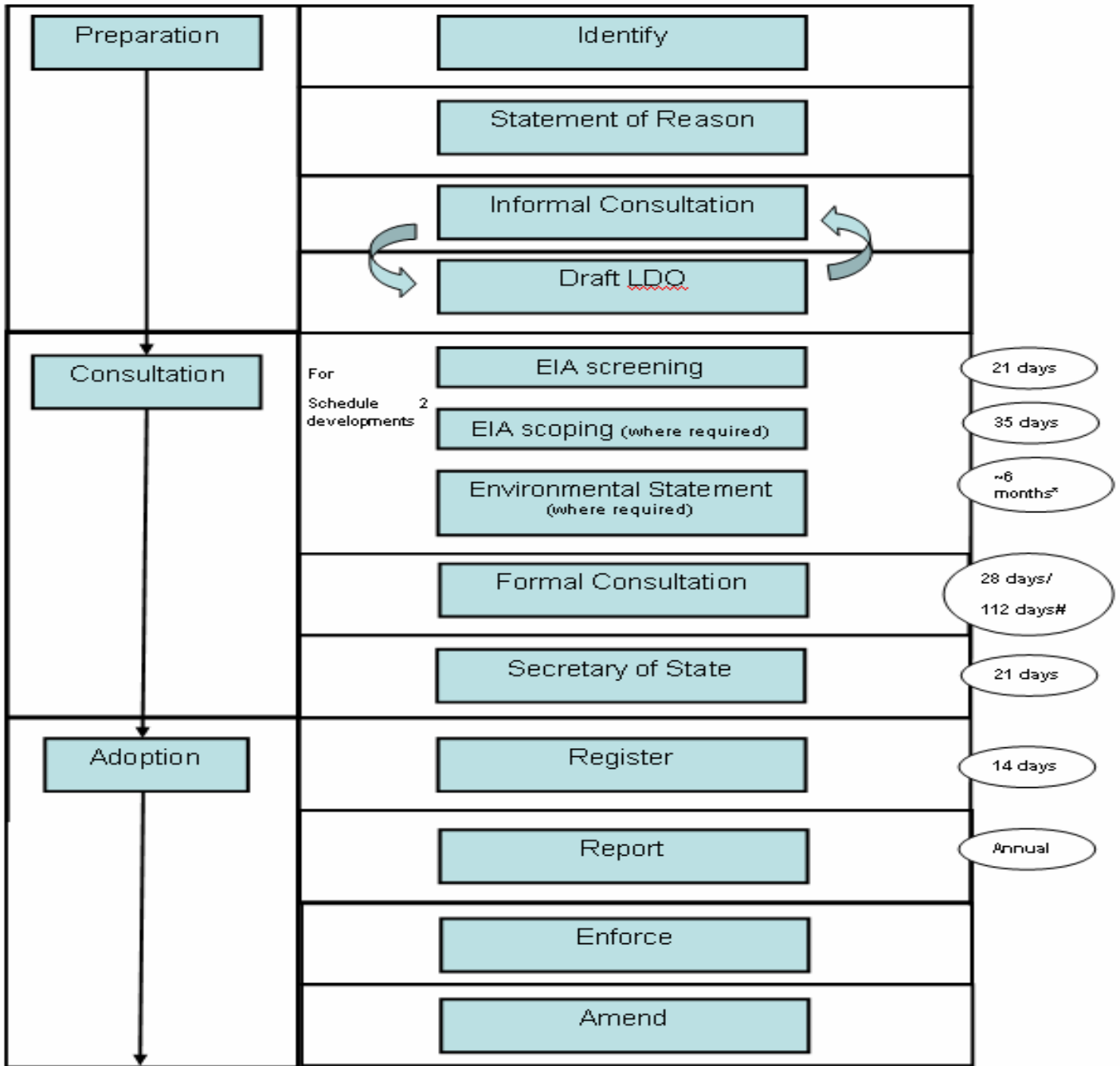


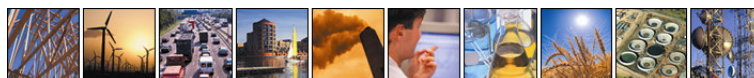
Figure 4.1 LDO Process Map



(based on DCLG Circular 01/2006)

\*Depending on the complexity of the development

#Where EIA development



## 4.3 Tools to Support LDOs

In the main, LDOs would appear to be most effective when accompanied by guidance which is specific to the LDO area, which acts as a framework for the development permitted by the LDO. The specific mechanism adopted will vary according to the situation. All have a time and resource implication which local planning authorities will factor into their consideration of LDO potential. Table 4.1 below sets out some tools which could potentially play an important role in supporting LDO identification and delivery.

### How might Design Codes work with LDOs?

Some stakeholders have supported the use of design codes as a way of attaching a set of design ‘rules’ for development permitted by LDO. A design code could be attached to an LDO by a condition, whereby it is envisaged that a LPA grants permission for the development specified by the LDO, provided that developments comply with the code. Any non-compliance or breach of development control would be subject to normal enforcement powers.

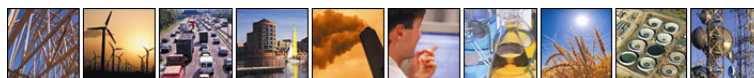
There would be potential for design codes in combination with LDOs to help to improve quality, certainty and speed in the development phase. This approach would be appropriate where the LPA is proactively seeking development of a site in a specific way. It would be suitable for large sites where an LDO might save time. It could also work where developers are demonstrating a commitment to engage over the potential for development of their land.

A design code requires a degree of upfront investment in resources and time (approximately 18 months), the return on which is increased speed and certainty of delivery, hopefully to higher standards. For sites with a long build-out, this could in theory save significant time in delivery phases. This is particularly evident if EIA has also been carried out for the LDO.

There are some risks raised with the use of design codes with LDOs. One is the possibility that, faced with uncertainty over the development that could occur under the LDO, LPAs might respond to public concern by producing a tightly defined code which prevents flexibility within the LDO and so removes one of the main benefits of LDOs. As a general principle, there needs to be multiple acceptable solutions that can be developed under the LDO and design code.

It would work best to prepare the LDO and Design Code together and revise both drafts of these in the light of consultation and EIA. Apart from the preparation costs and risks identified above, there would be potential costs arising from amendments to the design code which would create the necessity to amend the LDO. Another cost area is in relation to S106 Planning Obligations. A S106 agreement would need to be in place with the adoption of the LDO.

A design code is a technical document which is not easy to engage the community on. The link to the LDO would provide a wider basis for scrutiny of design codes.



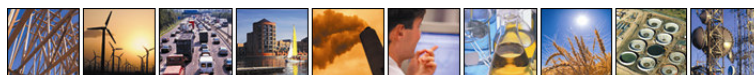
Some stakeholders have raised concerns over the potential weakness of an LDO/Design Code approach, relating to the use of the condition approach to provide the link to the LDO, and to the lack of specificity of design codes sufficient to provide for enforcement against unauthorised development, should it be required. In terms of the condition used to require development under an LDO to be permitted subject to the requirement to comply with a design code, it should be sufficient (in Newbury Test terms) for a condition attached to the LDO to refer to a specific code in order for the condition to be precise.

In terms of the content of the code, it would be for the LPA to set out the requirements, in close consultation with the developer. Generally, design codes do not provide for a precise level of detail. Within the context of an LDO, therefore, risk management needs to be carried out by the LPA and the developer to weigh LDO flexibility with certainty of outcome. Clearly the balance will vary according to the size and nature of development envisaged under the LDO, and its setting.

Further mechanisms may need to be brought into the LDO implementation to help this approach work. For example, where there is some room for doubt over whether development proposed is LDO/Code compliant, developers may wish to seek a Certificate of Lawful Development. Alternatively, LPAs might demand the submission of further information on certain proposed developments to be carried out under the LDO.

**Table 4.1 Planning tools to support LDOs**

Supporting Tool	Design Code
Summary	Design codes are a new approach to delivering improved quality development. They help to proactively plan for better design, investing resources upfront to help streamline later processes. Design codes are a distinct form of detailed design guidance comprising a set of written and graphic rules that establish with precision the two and three dimensional design elements of a particular development or area.
Timescales	6 months – 2 years Dependant upon the scale of the development. Design codes can be developed for small individual parts of the site or phases of the development
Milestones	1: Initiate 2: Coordinate 3: Appraise 4: Design and Test (consult) 5: Formalise 6: Implement 7: Manage
Consultation	When a draft of the final design code is available, Local authorities are advised to conduct formal consultation as part of the adoption process. Usually 6 weeks.



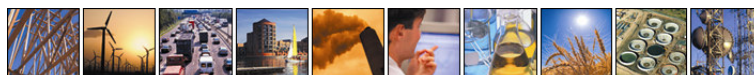
**Table 4.1 (continued) Planning tools to support LDOs**

Supporting Tool	Design Code (cont'd)
Monitoring	
Review Mechanisms	Reviews should take place at an early stage allowing the code to be refined in response to its use in practice. It is suggested that codes will continue to be reviewed at periodic intervals.
LPA resources	Local authority will be involved throughout the development of the design code. LPA will need to be involved in consultation process, implementation and managing. Majority of the design work will be undertaken by consultants Disciplines include: Planners, Urban designers, ecologists, designers
Supporting Tool	Supplementary Planning Guidance / Supplementary Planning Documents
Summary	Supplementary guidance is used to support statutory development plans, not as an alternative. Statements made in supplementary guidance carry less weight than those in the development plan in determining planning applications and appeals but are likely to be material considerations. Supplementary planning guidance can take the form of design guidance, development briefs and village design statements, as well as guidance that is supplementary to general policies within the LDF
Timescales	8 – 12 months
Milestones	1: Evidence gathering 2: Draft 3: Consult on draft 4: Revise draft 5: Adopt
Consultation	Statutory 6 week consultation period
Monitoring	Indicators and where possible targets are set, against which the progress will be monitored. These are then linked (where possible) to the core, local and contextual indicators of the Annual Monitoring Report (AMR) where the monitoring will be reported.
Review Mechanisms	Annual reviews of guidance
LPA resources	Evidence gathering usually undertaken by the LPA. Consultants can be used to undertake work Input from LPA planners during consultation phase Disciplines are dependant upon the topic of SPG
Supporting Tool	Area Action Plan
Summary	An Area Action Plan is a development plan document focused upon a specific location or an area subject to conservation or significant change. It is required to focus on implementation, providing an important mechanism for ensuring development of an appropriate mix and quality for key areas of opportunity, change or conservation. It is also required to outline protection for areas sensitive to change and aim to resolve conflicting objectives in areas subject to development pressures.
Timescales	1 – 2 years



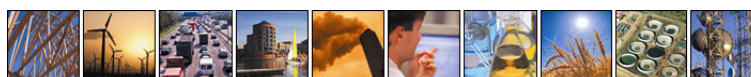
**Table 4.1 (continued) Planning tools to support LDOs**

<b>Supporting Tool</b>	<b>Area Action Plan (cont'd)</b>
Milestones	1: Prepare Issues & Options 2: Consult on Issues & Options 3: Develop Preferred Options 4: Consult on Preferred Options 5: Submit AAP 6: Examination 7: Changes following Inspectors comments 8: Adoption
Consultation	Statutory 6 week consultation period
Monitoring	Local authorities will monitor the implementation of AAPs, and performance against the plan's objectives. Indicators and where possible targets are set, against which the progress will be monitored. These are then linked (where possible) to the core, local and contextual indicators of the Annual Monitoring Report (AMR) where the monitoring will be reported.
Review Mechanisms	Periodic review
LPA resources	AAPs will increase the speed of determining a planning application
<b>Supporting Tool</b>	<b>Masterplan</b>
Summary	A master plan sets out proposals for buildings, spaces, movement strategy and land use in three dimensions and match these proposals to a delivery strategy  Masterplans are only required where the scale of change is significant and the area subject to change is more than a few buildings
Timescales	2 – 6 years
Milestones	1: Prepare Identify aims and objectives Set down the strategic framework Identify main stakeholders 2: Design Test and develop strategic framework Consult on options Prepare draft including 3D proposals Refine masterplan Finalise masterplan and report 3: Implementation Prepare implementation strategy (timetable, funding, risks etc) Establish mechanism for design quality design briefs, design codes, design panels) Deliver the Project !



**Table 4.1 (continued) Planning tools to support LDOs**

Supporting Tool	Master plan (cont'd)
Consultation	Wide range of consultation methods used during master planning including workshops, exhibitions, focus groups, enquiry by design. The amount of consultation and time periods can vary according to the scale of project , local interest etc
Monitoring	Sites will need to be assessed to evaluate the quality of design. <i>Design review</i> (CABE, London 2002) covers questions that should be considered and the Design Quality Indicators (DQIs) developed by the Construction Industry Council and CABE can be used. <i>Creating excellent buildings: a guide for clients</i> (CABE, London 2003) contains references and checklists for evaluating detailed design proposals for individual buildings and sites.
Review Mechanisms	See monitoring
LPA resources	Will require input from a number of LPA disciplines including: Planners, urban designers, ecologists, architects, engineers, economists, archaeologists
Supporting Tool	Village Design Statements
Summary	A Village or Town Design Statement [VDS] is a practical tool to help influence decisions on design and development. Prepared correctly, a VDS will provide a clear statement of the character of a particular village or town against which planning applications may be assessed. It is not about whether development should take place, but about how development should be undertaken so as to respect the local identity.
Timescales	6 – 12 months
Milestones	1: Concept 2: Form design group 3: Gather evidence/public involvement 4: Produce draft 5: Amend draft 6: Adopt
Consultation	Local people used from an early stage as they have good understanding of the issues. Some are likely to be included in the design group and can be used to write parts of the statement. Other local people are consulted on draft
Monitoring	Annual Monitoring Report - indicators and targets relevant to design of the village
Review Mechanisms	Periodic review
LPA resources	Local people can be used to provide large amount of the input and even produce a draft of the statement. Consultants can be used as facilitators of the process.
Supporting Tool	Management Agreement
Summary	Management agreements are designed to enable the positive and efficient management of large scale or complex historic sites under a single ownership or management. This is a voluntary agreement entered into by owners and managers of the site, LPA and English Heritage that will set a strategic vision for the management of the site over a fixed period of time and provide advance consent for strictly defined agreed works.



**Table 4.1 (continued) Planning tools to support LDOs**

Supporting Tool	Management Agreement (cont'd)
Timescales	1: Draw up agreement 2: Adopt
Milestones	1: Draft 2: Final
Consultation	Technical document which will be consulted upon, though it is not consultation-friendly.
Monitoring	English Heritage to regularly monitor development
Review Mechanisms	Annual review of development in accordance with the code
LPA resources	LPA part of the team that draw up the agreement. Help and guidance given by English Heritage

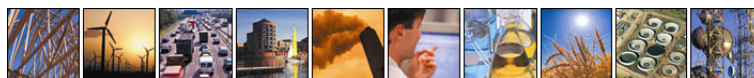
## 4.4 Conclusions

The LDO process gives LPAs the opportunity to establish permissions for specific classes, types or individual developments within a specified area. They have the ability to define parameters for development and to set out exceptions, or specific rules that must be followed before development commences (such as the provision of information to the LPA). As such they are a flexible tool consistent with the reformed planning system which encourages the use of a broad range of policy and implementation responses to secure spatial plan objectives and improve planning services.

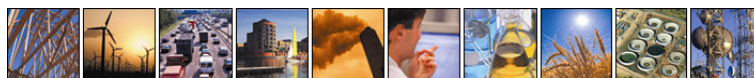
The process for LDOs is relatively straightforward. However, the flexibility open to LPAs means there are range of potential approaches to employ. Some core principles should be followed which would see LDOs based, where possible, on agreed development plan policies, full community involvement, targeted to achieve clear purposes and appropriately specified to provide the conditions for increased certainty for developers and communities.

The process allows for a range of supporting LDO documents to be produced and provide a more detailed framework to guide development under the LDO. These can be requirements or conditions which must be fulfilled. A range of potential tools can be used, including design guidance, planning conditions and Section 106 agreements. LPAs will need to factor into their planning, the time and resources required to prepare and adopt such documents.

By and large there should be opportunities throughout the LDO process to integrate LDO preparation with other plan-related activities, and opportunities to share the burden with other stakeholders and developers/landowners who may benefit. In particular, LPAs should aim to integrate monitoring and enforcement activity associated with LDOs into their wider approaches.



There may be opportunities to streamline the LDO process further if stakeholder views expressed in the course of the project are acted on – specifically to remove the requirement to secure Secretary of State Consent to adopt an LDO and also to remove the requirement to report annually on LDO performance.



## 5. Illustrating the potential for LDOs

### 5.1 Introduction

The Killian Pretty Review sought stakeholder views about the potential for LDOs. It reported some scepticism about their value, with many local planning authorities viewing the process as complex, costly and potentially a generator of extra work, rather than a tool which can save resources.

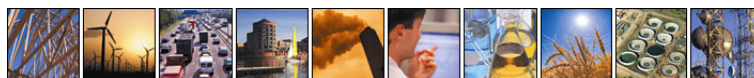
The Review considered that this could change with greater central encouragement and support. Government supported pilot LDOs were floated as a potential way to provide this, providing a useful framework and learning resource which would help reduce development costs for other authorities.

The review felt that some specific candidate pilot LDOs could prove useful in promoting the concept - very large scale residential development identified in an up to date development plan and where the LDO is, in effect, a design code. Another candidate was large self contained complexes, such as universities, hospitals and possibly industrial/business/warehouse parks. Here, the review noted that there is often a constant need to adapt and extend buildings quickly to respond to new opportunities, and where the scope for small scale changes which have minimal impact on the wider area may be greater.

Whilst the provision for making LDOs was introduced in the 2004 Act, to date no local authorities are known to have adopted an LDO. The 2004 Act which introduced section 61A to the 1990 Act placed a clear requirement on an LDO to support implementation of adopted development plan policies. Whilst recognising that the Planning Act 2008 has now omitted subsection 1 of Section 61A of the 1990 Act, as amended, and a requirement on LDOs to implement development plan policies no longer exists, it is considered there remains a need to have an existing appropriate policy basis for the permitted development. Current guidance on the preparation of LDOs, contained in Circular 1/2006, reflects the former position and therefore is in need of review for, at best, it must be considered limited in its value.

Many LPAs are focussed on progressing the production and adoption of Development Plan Documents, and as such have been concerned with establishing this policy base. As a consequence it is considered that the making of LDOs will only be considered by LPAs where there is a specific and particular issue which cannot be addressed by more traditional means. However, it is considered that LDOs provide the opportunity to secure solutions that extend beyond the conventional but in so doing a more pragmatic approach needs to be adopted.

There are reasons to suggest this will become the case. Firstly the Government's adoption of an impacts-based approach to its reform of permitted development rights has expanded awareness among local authorities of the debate about how to manage development at different scales and complexity, and of adopting approaches which ensures that development management processes are proportionate to their impact and significance. The recent review of the planning system by the Killian-Pretty Review has also given the LDO concept a boost. Local authorities will have noted the Review's recommendation to Government to examine the reasons for low-take up of



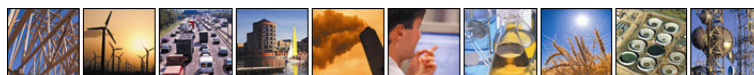
Local Development Orders and to consider the encouragement of the use of LDOs, particularly for large institutions and business parks. Secondly with LPAs having to address a number of significant issues both in respect to reduction in funding and staffing levels and a decline in development, they will need to consider alternative solutions.

LDOs provide a tool which has the potential in specific circumstances to assist but in considering this potential it is necessary to apply a degree of lateral thinking whilst recognising that they do have their limitations. It is noted that there is a degree of reticence on the part of LPAs to the use of LDOs and it is suggested that at least in part this is due to a lack of understanding. This will need to be addressed and overcome.

The following table summarises the opportunities for the application of LDOs, it is not intended to be exhaustive but only intended to illustrate the potential for their use.

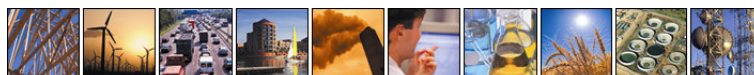
**Table 5.1 Potential LDO Opportunities**

Development context	Scope	Potential
Regeneration sites	To provide a flexible framework to stimulate development of major sites. This could potentially permit larger scale development through an LDO subject to masterplan, design guidance and other conditions and obligations.	Their use has the support of a number of stakeholders and there are potential opportunities to consider a strategic approach. Would require investment in supporting guidance (masterplan, design code etc), and a range of other planning documents (S106, Conditions) to provide an appropriate framework to guide strategic development. It is considered the use of LDOs to achieve strategic development is a fundamental change to the planning system that warrants specific and detailed consideration beyond the scope of this report.
Business Parks	Specified and limited list of minor developments, where impact is contained within business park. Could provide a degree of flexibility in the uses particularly where there is locally an overprovision or lack of demand; thereby leading to occupation of vacant premises,	There is recognition that LDOs could work in Business Parks, and it is considered the introduction of a degree of flexibility in uses could meet market demand providing alternative and more appropriate premises. It is considered that owners of business parks, who wish to provide a more certain and flexible environment for their tenants as a marketing initiative would favourably consider an LDO.
Residential areas	To permit minor extension developments on largely uniform dwelling stock conforming to agreed design parameters. Also, an LDO could permit minor development works, for example windows replacement programme, across an authority's or social landlords housing stock.	Stakeholders have not raised this as a particular opportunity for LDOs although perhaps most appropriate to RSLs and the like. However, developments of the kind referred to here are very resource intensive for LPAs.



**Table 5.1 (continued) Potential LDO Opportunities**

Development context	Scope	Potential
Education and hospital campuses	An LDO could permit minor development occurring within campus. It could also provide a more strategic framework for development of campus buildings over time to implement university or hospital trust investment plans.	Education establishments, when briefed on the potential role of LDOs, appear to be interested in developing an LDO. Consultants working for hospitals and universities will need to be actively engaged on LDOs.
Schools	County Councils and Unitary Councils as planning authority for schools development could provide an LDO as a framework to allow minor development occurring within campus.	Some local authorities have raised the potential to use an LDO for schools related development. This might require further consideration given the potential public concern of local authorities permitting their own development.
Town Centres	An LDO could allow changes between town centre use classes, and potentially minor changes in street furniture, signage and advertising.	This appears to be a timely suggestion given the impact of the economic downturn on town centres. Flexibility over change of use in town centres might help to maintain occupancy of key frontages.
Conservation Areas	There is potential for LDOs extending permitted development rights in whole or in part within Conservation Areas. The LDO would have conditions and design guidance attached to it to provide locally relevant design parameters for permitted development.	The principles are similar to those set out in Heritage Partnership Agreements.
Minerals sites	An LDO could be used to broaden the application of 'permitted development' rights in some or all minerals sites, for example to allow extensions of buildings.	Unique characteristics of each extraction site might make it difficult to prescribe general conditions to attach to a LDO. Majority of larger proposals would fall outside scope of LDO due to requirement for EIA.
Climate Change	An LDO would be used to permit development of a wide range of householder and micro-renewable installations across some or all of a local authority area. It could provide a framework permission for the installation of district heating networks based on an existing generation station to serve existing housing. It could provide a framework-permission for a decentralised area network for generating facilities to serve several development sites and/or existing housing. There is the opportunity to enable upgrade of existing properties particularly where these are controlled by a single landlord.	This is considered to have benefits and might be worthy of further specific examination following this study.
Waste	An LDO could broaden the application of 'permitted development' rights in some or all waste sites, to allow changes of use or extension to operations. An LDO could provide an appropriate mechanism to allow layout changes or other minor developments.	Similar to minerals sites, the unique characteristics of waste sites could make it difficult to prescribe general conditions to attach to a LDO.
Green Belt	An LDO could allow the change of use of land where this does not conflict with the objectives or purpose of its inclusion in Green Belt thereby allowing appropriate new uses.	May provide the opportunity to enable appropriate use of vacant or derelict land. Alternatively could encourage appropriate use for recreation, nature conservation etc



## 5.2 General Principles to Consider

A number of general principles apply to the consideration as to whether a LDO may or may not be appropriate.

**Other controls will remain** - Other controls will also remain within the area of a LDO and, for example, these would include those imposed by the Building Regulations and Advertisement Regulations.

**Time-limited LDO** – Whilst there is a requirement to monitor the effectiveness of an LDO, it would be important to include a provision which enables review. Notwithstanding the fact that a LPA can revise or revoke a LDO at anytime it may be appropriate to include a time-limit on the LDO to enable review of the provisions in the light of prevailing conditions and to take account of development which has taken place. It should be noted that compensation may be payable in certain circumstances and this should be addressed through an appropriate condition.

**Policy Basis** - Whilst recognising that the requirement to implement policies no longer exists, it is considered there remains a need to have an existing appropriate policy basis for the development permitted by the LDO.

**LPA Concerns** -The LPA is likely to be concerned regarding the resources and costs necessary to prepare and introduce an LDO.

**Political Support** - The making of a LDO would need political support within the Local Authority. It will need to be shown that it delivers positive benefits whilst minimising impacts.

**Conditions** – Appropriate conditions would need to be included in the LDO and these could manage the implementation and limit the impacts of changes.

**Section 106** – This allows for a local planning authority to enter into an agreement with any person interested in land in their area for the purpose of restricting or regulating the development or use of the land and it is considered that in theory their use is an option in respect of LDOs although in practice this is likely to give rise to a number of procedural issues.

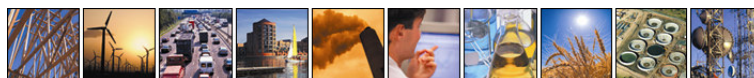
**Article 4** - It is considered that the use of an LDO to restore permitted development rights removed by an Article 4 Direction is not appropriate for the appropriate mechanism would be for the LPA to cancel the Direction and, if appropriate, make a new Direction.

Below, some of the ideas in Table 5.1 above are developed further for discussion.

### 5.2.1 Town centres

#### Purpose for Advocating a Town Centre LDO

The signs of the economic downturn are already widely visible in town centres. Several chain retailers have closed their doors, creating a significant impact on town centre retail provision. Small to mid-range town centres with a



'traditional' retail offerings are being affected the most by the shop closures. Often, such retailers occupy the same part of the town centre, increasing the impact of their closure on the vitality of the town centre and will impact on the viability of remaining occupiers. In addition, financial sector rationalisation could lead to the closure of significant town centre office premises. There is a danger of significant impacts on the attractiveness of town centres as destinations for shopping, doing business and entertainment.

## **Flexibility in Change of use between Different Use Classes.**

A possible response to economic change affecting town centres from wherever this arises, could be to facilitate the smoother transition of town centre uses from one activity to another, as opportunities arise over time. Flexibility is a key response to allow the opportunities which are evident in these difficult times to be taken. Consideration should be given to the use of Local Development Orders in this regard.

An LDO could identify the boundary of a town centre and, within the boundary, define changes of use that could occur without planning permission. This could be limited to certain changes of use, excluding those that may be less desirable, on the grounds of the impact on long term town centre viability or on the grounds of scale and importance. Table 5.2 gives an indication of the sorts of changes which might be possible within an LDO context, notwithstanding other regulatory processes and regimes.

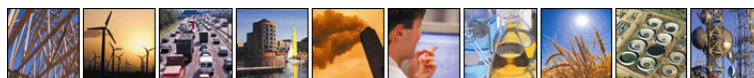
The benefits from allowing more flexibility in changes of use are three-fold:

- First, it could create opportunities for relocation or development in available town centre locations;
- Secondly, it would allow existing businesses to evolve within their current premises if they so wish, though the likelihood of this occurring for most businesses must be considered small;
- Thirdly, there would be opportunities for community-based organisations and enterprises to occupy premises, maintaining them in productive use whilst ensuring activity in town centres is maintained;
- Speed of change – no procedural delays associated with making an application;
- Certainty of outcome – a prospective tenant knows what he can do.

## **Principles to Consider**

In addition to general principles outlined above, governing the use of LDOs, some specific principles might be considered in a town centre context:

*A key principle to consider would be to avoid a permanent loss of A1-A2 floorspace. Maintaining the vitality and viability of town centres is an important element of national planning policy. It would be an important principle to ensure that through the operation of a town centre LDO, there was no significant permanent loss of A1-A2 floorspace.*



A town centre LDO might be limited to existing floorspace. It is considered that LDOs would be most appropriate to changes in floorspace within the provisions of the Use Classes Order 2006 and whilst they could include demolition or redevelopment, it is considered that, in most circumstances, this will not be a practical option due to difficulties in specifying the works that are permitted.

A key LDO objective would be to maintain retail opportunity. Some vacancy within town centres is required for business turnover and new business creation. It will be important for retail opportunities to be maintained. Whilst it is important for town centres to remain vital through use, we would want to avoid the equivalent of charity shop dominance of town centre premises with other non-retail or non-retail office uses over a long period of time.

Other controls will remain. An LDO cannot apply to a Listed Building and therefore they would need to be specifically excluded from any area to which a LDO applied and as such the existing requirements to obtain planning permission and/or Listed Building consent would remain in place. Other controls will also remain within the area of a LDO and these would include those imposed by the Building Regulations and Advertisement Regulations.

It will be important to consider the impact on existing users. For example, would it be unfair to existing occupiers if competitors locate in more 'advantageous' (spacious?) premises not designed or intended for that use?

Exclude A3, A4 and A5 Use Classes? It might be that changes of use to Class A3-A5 would be excluded from LDOs and therefore require planning permission in each case as these uses often give rise to issues of nuisance, noise, odours and law and order. This will need to be considered in light of local circumstances but it might be that appropriate control can be secured through conditions.

**Table 5.2 Potential for use class changes in town centre LDO**

Use Class	Scope to Change to	Other Considerations
A1 Shops - Shops, retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices, pet shops, sandwich bars, showrooms, domestic hire shops, dry cleaners and funeral directors.	A2, D1	The contraction of retail in town centres is likely to be temporary. Would want to maintain retail capacity overall.
A2 Financial and professional services - Banks, building societies, estate and employment agencies, professional and financial services and betting offices.	A1, D1	The consolidation of banks could create a permanent reduction in requirement for such premises. In combination with growth in financial services and betting on internet.
A3 Restaurants and cafés - For the sale of food and drink for consumption on the premises - restaurants, snack bars and cafes.	A1, D1	
A4 Drinking establishments - Public houses, wine bars or other drinking establishments (but not night clubs).	A1, D1	
A5 Hot food takeaways - For the sale of hot food for consumption off the premises.	A1, A2, D1	



**Table 5.3 Potential for use class changes in town centre LDO**

Use Class	Scope to Change to	Other Considerations
D1 Non-residential institutions - Clinics, health centres, crèches, day nurseries, day centres, schools, art galleries, museums, libraries, halls, places of worship, church halls, law court. Non residential education and training centres.	None without planning permission	Community uses in town centres are an important ingredient in the variety of activities which make up town centre uses. Traditionally, these uses have been under significant pressure from other uses and are likely to be so again. Should changes from this use class be excluded?
D2 Assembly and leisure - Cinemas, music and concert halls, bingo and dance halls (but not night clubs), swimming baths, skating rinks, gymnasiums or sports arenas (except for motor sports, or where firearms are used).	None without planning permission	
Sui Generis - Theatres, houses in multiple paying occupation, hostels providing no significant element of care, scrap yards. Petrol filling stations and shops selling and/or displaying motor vehicles. Retail warehouse clubs, nightclubs, launderettes, taxi businesses, amusement centres. Casinos.	None without planning permission	

## Monitoring and Implementation

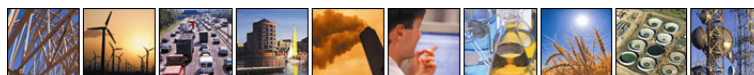
Local Planning Authorities currently receive planning applications and determine them on their merits. An LDO would require a different way of working, which might present a challenge to current ways of working. This approach would argue in favour of greater local focus and discretion. There could be particular challenges in authority areas which contain several town centres, for the focus on each may vary.

LDOs present an opportunity to permit certain types of specified development within specifically defined areas, in a different way outside of the normal regulatory approach of requiring serial planning applications. For LDOs to work effectively in town centre situations, partnership may be required between the local planning authority and a local ‘town centre’ partner. In all cases where ‘devolution’ to localities from principal authorities is considered, an important challenge is to identify credible and competent partners with which to work.

Town Centre management organisations (the Town Centre Manager) could play a role in managing the implementation of the LDO working with occupants in the town centre. Local Authorities could accompany an LDO with appropriate detailed guidance and model conditions. They would need effective monitoring arrangements of the implementation of the LDO. Responsibility remains with local planning authorities under planning acts.

## Legal/Planning Issues to Consider

There are a number of issues which need to be emphasised:



- Essentially there is an overall need to maintain and encourage A1 uses; and therefore would a proliferation of other uses be acceptable?
- There is a need to recognise that there will be issues of competition/vitality arising from certain operators and even within the town centre this may give rise to local concerns particularly if it is considered they are provided with favourable circumstances;
- Existing planning permissions for retail properties may contain restrictive conditions relating to things like hours of operation, restriction on the sale of certain goods etc. Would the existing conditions still apply or would they be overridden by the LDO? The legal position needs to be clarified but it is suggested that it would be inappropriate for new uses to operate under more favourable conditions;
- Whilst recognising that the requirement to implement adopted policies no longer exists, it is considered there remains a need to have an existing appropriate policy basis for the development permitted by the LDO;
- The LPA is likely to be concerned regarding the resources and costs necessary to prepare and introduce an LDO;
- The making of an LDO would need political support within the Local Authority.

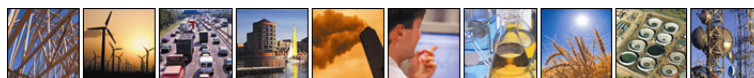
## 5.2.2 Business Parks

### Purpose for Advocating a Business Park LDO

Part 8 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 allows for limited development including extension and alteration of industrial and warehousing buildings without the need to obtain the consent of the LPA. The purpose of a LDO would be to place certain additional development on business parks/ industrial estates outside of planning control thereby allowing it to be undertaken without the need to first obtain planning permission. Whilst it is expected that there would be restrictions on the form and extent of the permitted development through the imposition of conditions, a LDO could provide particular benefits through delivering flexibility, speed, certainty of outcome and reduced cost.

There are three distinct and separate situations where an LDO could serve a particular purpose. Firstly it could allow for works to be undertaken to buildings and land other than those used for industry and warehousing. Secondly, it could allow for the construction of buildings and, thirdly, it could allow greater flexibility in the change of use.

The critical issue with such parks is that the circumstances relating to each will be different and what might be acceptable in planning terms for one is unlikely to be acceptable to another. Each must be considered on its individual merits and therefore consideration is only given here to general principles. In assessing the appropriateness of an LDO for any particular site it is considered that it is necessary to follow an approach of impact assessment to identify and assess the significance of issues such as proximity to town centre, residential amenity, noise, light pollution, fumes, traffic and highway links.



## Flexibility in Change of Use between Different Use Classes.

An LDO could provide for less restrictive changes between use Classes B1/B2/B8 and, the introduction of other uses eg leisure (D2) and retail (A1).

Business Parks typically, but not exclusively, comprise business uses B1/B8 and possibly some B2. The GDPO allows for limited change between uses within this Class. An LDO could allow for more extensive change or, alternatively, change to a different Use Class. The extent to which an LDO could allow for a change of use will, it is suggested, depend on the significance of that change.

## Works Other than those Relating to Industrial and Warehousing Buildings/Land

Part 8 of the General Permitted Development Order allows for certain works to be undertaken to industrial and warehousing buildings/land without the need to apply for planning permission. This does not apply to buildings such as offices located on the sites. An LDO could, in effect, extend these rights to other buildings and land on business parks, allowing work to be undertaken without the need to obtain planning permission.

## Extending the Current permitted Development Rights to Allow for Construction of Buildings

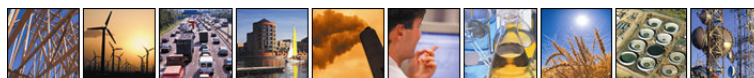
Currently the construction of all new industrial and warehousing buildings whatever their size requires planning permission. A LDO could, subject to conditions, allow for the construction of buildings where this does not involve significant and adverse impacts.

## Principles to Observe

**Employment Policy** – Business Parks will usually be located within areas identified for employment use and are subject to rigid employment policy which restricts change of use with the use class and between use classes. A more flexible policy approach to business uses may need to be adopted by LPAs.

**Conditions** – Appropriate conditions will need to be imposed on the LDO to prevent or overcome any potential adverse impacts. The type of condition will depend on the nature of the LDO but it is important that the conditions are effective and satisfy the legal tests.

**Section 106** – Business Parks are often in single ownership and this allows for the LPA to enter into an effective agreement which might provide for community benefits.



**Table 5.4 Potential for Making Use of Use Class Changes in a Business Park LDO**

Use class	Scope to change to	Other considerations
B1 Business - Offices, research and development, light industry appropriate in a residential area.	B8	In excess or permitted floorspace
B2 General industrial	B1 or B8	In excess or permitted floorspace
B3-B7 Special Industrial Groups - See 'Use Classes Schedule'.	None without planning permission	
B8 Storage or distribution - This class includes open air storage.	B1	In excess or permitted floorspace

## Monitoring and Implementation

Local Planning Authorities currently receive planning applications and determine them on their merits. A LDO would require a different approach, which is likely to present a challenge to current ways of working. The economic downturn has had a significant impact on businesses and in turn business parks. Many units remain unoccupied, new developments are unlikely to be progressed in the approved form and less desirable premises are being vacated.

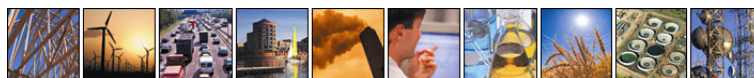
It is considered that the key to addressing the problem is with LPAs adopting a flexible and pragmatic approach to development rather than a strict adherence to rigid employment policies. This may, however, require a change in attitude.

An LDO could provide this flexibility but it will need the support of the LPA and will need to be prepared in partnership with the tenants and owners.

### 5.2.3 Schools/Universities/Hospitals

#### Purposes for Schools, Universities and Hospital LDOs

Part 32 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 allows for limited development on school, university and hospital sites without the need to obtain the prior consent of the LPA. However for such development to be permitted it needs to satisfy a number of fairly stringent conditions and, perhaps most importantly, the building to be extended/constructed is where the predominant use of buildings already on the site is for educational, medical or medical services. There are two points here; firstly the exclusion is poorly worded and open to challenge and secondly, it effectively precludes ancillary works. In addition, no building can be erected within 20m of the boundary and development cannot result in the loss of a playing field; in a Conservation Area, the materials must match the existing.



The purpose of a LDO could be to provide clarity and to place certain additional development outside of planning control thereby allowing it to be undertaken without the need to first obtain planning permission. This is considered to be particularly relevant to ancillary buildings. It is considered that otherwise the GPDO exclusions/condition should remain to ensure that potentially controversial matters, for example the loss of playing fields and impact on neighbouring amenities, can be fully considered through the planning application process. An LDO could provide particular benefits through delivering flexibility, speed, certainty of outcome and reduced cost.

There are considered to be two distinct and separate situations where an LDO could serve a purpose. Firstly it could allow for the undertaking of more general works on a site irrespective of the predominant use and secondly it could allow for the implementation of all or specific works where these are in general accordance with a plan approved by the LPA. The benefit of this latter scenario is that unlike an outline planning permission it would not be time-limited and in effect there would be a constant and active 'decision' thereby providing speed and a certainty of outcome.

## Flexibility in Change of Use Between Different Use Classes.

Schools, universities and hospitals fall within the use class C2. By their very nature such institutions include a range of ancillary uses associated with the primary function, so a degree of flexibility already exists and there is the existing scope for changes in use where these are not material. As a consequence it is not considered that there would be a need for such sites to change their use through an LDO.

## Undertaking of More General Works

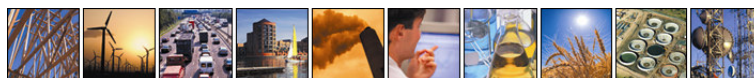
Essentially a LDO could permit the undertaking of development currently excluded by the GPDO where this did not involve significant harm to the amenities. It is to be expected that other than the exclusion relating to predominant use the other exclusions/condition would remain and in so doing they address this issue.

## Implementation of Works Where these are in General Accordance with a Plan

Where the general principles of development have been agreed through a formal planning process eg. Planning Brief, SPD, or Area Action Plan, then an LDO might usefully enable development to be undertaken in accordance with that plan. The benefit is that this is not limited by time, will not be subject to delays and there is a certainty of outcome. It will, however, be important that the conditions are appropriately worded.

## Principles to Observe

**Conditions** – Appropriate conditions will need to be imposed on the LDO to prevent or overcome any potential adverse impacts. The type of condition will depend on the nature of the LDO but it is important that the conditions are effective and satisfy the legal tests.



## Monitoring and Implementation

Local Planning Authorities currently receive planning applications and determine them on their merits. A LDO would require a different approach, which is likely to present a challenge to current ways of working. Perhaps the key issue with schools, universities and hospitals is one of making things simpler and providing a degree of certainty and speed of delivery. An LDO could do this but it will need the support of the LPA and will need to be prepared in partnership with the institutions.

### 5.2.4 Minor Residential Development

#### Purpose for Advocating a Residential LDO

Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 allows for certain development to a dwellinghouse and land within its curtilage without the need to obtain the prior consent of the LPA subject to a number of conditions being satisfied. However flats and certain other residential buildings do not have permitted development rights other than the erection of a single satellite dish on a building as conveyed by Part 25 of the GPDO.

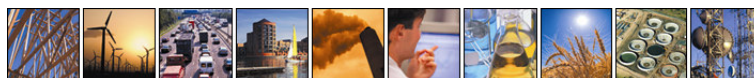
Whilst it is considered that the permitted development rights as they relate to a dwellinghouse are extensive and therefore the scope under general circumstances for allowing further relaxation through a LDO is extremely limited, it might be that there will be a particular circumstance where a form of development, currently requiring planning permission, would be acceptable in respect of an estate or other large area of housing.

Perhaps the greatest scope for an LDO relates to estates of flats where the buildings are of similar form. Even then the scope for an LDO as it relates to individual flats is very limited and the area where a LDO could provide greatest benefit is where it relates to the buildings themselves. Works such as replacing of windows, roofs and other renovation works, which may be construed as materially impacting on the external appearance of the buildings, are considered to be particularly suited to an LDO if they are to be undertaken over a significant number of properties or a period of time.

In such circumstances an LDO could provide benefits to a landlord or freeholder by speeding up the process, providing certainty of outcome and reducing the cost. Conversely, the LPA may be concerned regarding the loss of control over the appearance and lack of formal consultation process, but it considered that the imposition of appropriate conditions can, if necessary, address these issues.

#### Flexibility in Change of Use between Different Use Classes.

The circumstances where the change from dwelling house to another use would be acceptable are likely to be exceptional and therefore it is considered that in this respect an LDO would neither be appropriate nor acceptable.



## Undertaking of Renovation Works

Essentially, an LDO could permit the undertaking of renovation works to blocks of flats, currently requiring planning permission, where this did not harm, or where it enhanced, the appearance of the buildings.

## Principles to Observe

Conditions – Appropriate conditions will need to be imposed on the LDO to prevent or overcome any potential adverse impacts. The type of condition will depend on the nature of the LDO but it is likely they will have to be prescriptive and refer to appropriate design guidance.

## Monitoring and Implementation

It is considered that provided the conditions imposed on the LDO are clearly worded, explicit and, where appropriate, linked to approved guidance then both implementation and monitoring should be straightforward. However difficulties may occur if the LPA is not prepared to sufficiently relax control and agree the extent of works that are permitted, particularly as these relate to issues of design and visual impact which are so often matters of individual opinion.

## 5.2.5 Micro-Generation Equipment/Renewable Energy

### Purpose for Advocating a Micro-Generation Equipment/Renewable Energy LDO

Part 40 of the Town and Country Planning (General Permitted Development)(Amendment) Order 2008 allows for certain development to a dwellinghouse and land within its curtilage in the provision of microgeneration equipment without the need to obtain the prior consent of the LPA, subject to a number of conditions being satisfied. However flats and certain other residential buildings do not have permitted development rights. These permitted development rights are essentially as follows:

#### **Solar PV and Solar Thermal (Roof Mounted):**

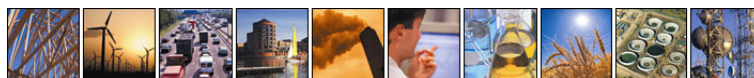
Permitted unless;

- Panels when installed protrude more than 200mm;
- They would be placed on the principal elevation facing onto or visible from the highway in buildings in Conservation Areas and World Heritage Sites.

#### **Solar PV and Solar Thermal (Stand Alone):**

Permitted unless:

- More than 4 metres in height;



- Installed less than 5 metres away from any boundary;
- Above a maximum area of array of 9m<sup>2</sup>;
- Situated within any part of the curtilage of the dwelling house or would be visible from the highway in Conservations Areas and World Heritage Sites.

### ***Biomass Heating Systems and Combined Heat and Power Systems:***

Permitted unless:

- Flue exceeds 1m above the roof height;
- Installed on the principal elevation and visible from a road in buildings in;
- Conservation Areas and World Heritage Sites.

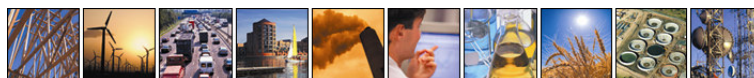
### ***Ground Source Heat Pumps and Water Source Heat Pumps:***

Micro Wind and Air Source Heat Pumps are not included due to concerns over noise and vibration and currently require planning permission.

There are considered to be two areas where an LDO might be useful. Firstly by extending the existing permitted development rights to dwelling houses to allow micro-generation equipment currently not permitted, eg Micro Wind and Air Source Heat Pumps; and secondly by extending permitted development rights to allow micro-generation equipment on buildings other than dwelling houses.

It is understood that legislation is currently being considered that may allow for Micro Wind and Air Source Heat Pumps as permitted development although it is considered that this is likely to be conditional. Therefore in these circumstances and in the absence of clearly defined ‘acceptable’ levels of noise and vibration, a LDO which extends permitted development rights to dwelling houses to include this micro-generation equipment is considered to be premature and potentially superfluous. However, this is an area that should be kept under review particularly having regard to advances in technology both in respect of existing and future equipment.

It is considered that with regard to other residential buildings, eg flats, and non-residential buildings there is potentially a strong case, in specific circumstances, for permitting micro-generation equipment similar to that currently allowed for dwelling houses. In particular this would provide for, and could encourage, upgrading and improvements in energy efficiency and reduction in carbon footprint. It is considered that the issues will essentially be ones of design and impact on visual amenities but subject to appropriate conditions a LDO might be applied to a specific area such as an industrial/ business park or an estate, although depending on the circumstances it could apply to particular type(s) of buildings throughout the area of a Local Authority.



## Undertaking of Upgrading or Energy Efficiency Works

Essentially, an LDO could permit the undertaking of such works to blocks of flats or other buildings, currently requiring planning permission, where this did not harm the appearance of those buildings. A specific area where this could be useful is in assisting a RSL or other landlord in upgrading existing flats to Code Level 3 or better in the Code for Sustainable Homes by speeding up the process, providing certainty of outcome and reducing the cost. The LPA may be concerned regarding the loss of control over the appearance and lack of formal consultation process but it considered that the imposition of appropriate conditions can, if necessary, adequately address these issues.

## Principles to Observe

**Conditions** – Appropriate conditions will need to be imposed on the LDO to prevent or overcome any potential adverse impacts. The type of condition will depend on the nature of the LDO but it is likely they will have to be prescriptive and refer to appropriate design guidance.

## Monitoring and Implementation

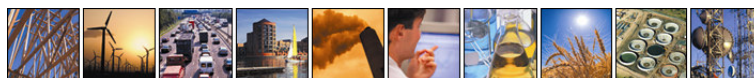
It is considered that provided the conditions imposed on the LDO are clearly worded, explicit and, where appropriate, linked to approved guidance, then both implementation and monitoring should be straightforward. However difficulties may occur if the LPA is not prepared to sufficiently relax control and agree the extent of works that are permitted, particularly as these relate to issues of design and visual impact which are so often matters of individual opinion.

### 5.2.6 Green Belts

#### Purpose for Advocating a Green Belt LDO

The fact that a property is situated within the Green Belt does not restrict the development that is permitted under the Town and Country Planning (General Permitted Development) Order 1995, as amended. However both national policy (PPG 2) and local policy place restrictions on the form and extent of development that is likely to be considered acceptable. Where land is in agricultural usage it will have permitted development rights under Part 6 of the GPDO.

There are considered to be two potential areas where an LDO might be useful. Firstly by permitting particular works which currently require permission and secondly by allowing a material change in use. In either case it will be necessary to ensure that there is no conflict with the objective and purposes of the inclusion of land in Green Belt. It is however recognised that the opportunities are likely to be limited and may well be specific to a particular area. Perhaps the greatest opportunity for an LDO would be in allowing vacant or derelict land to change to an appropriate use without the need to obtain consent.



## Principles to Observe

**Conditions** – Appropriate conditions will need to be imposed on the LDO to prevent or overcome any potential adverse impacts. The type of condition will depend on the nature of the LDO but it is likely they will have to be prescriptive and refer to appropriate design or Conservation Area guidance.

## Monitoring and Implementation

It is considered that provided the conditions imposed on the LDO are clearly worded, explicit and, where appropriate, linked to approved guidance then both implementation and monitoring should be straightforward. However difficulties may occur if the LPA is not prepared to sufficiently relax control and agree the extent of works that are permitted, particularly as these relate to issues of impact on character, appearance and amenity which are often matters of local concern.

### 5.2.7 Conservation Areas

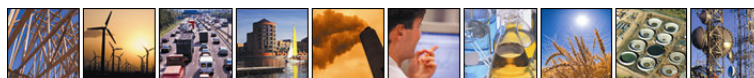
#### Purpose for Advocating a Conservation Area LDO

The Town and Country Planning (General Permitted Development) Order 1995, as amended, removes or restricts the permitted development generally allowed under classes A, B, E, G and H in respect of a dwellinghouse and land within its curtilage where they are situated within a Conservation Area (article 1(5) land). However it may be that certain forms of minor development are generally acceptable within particular Conservation Areas and could be permitted by the making of a LDO.

It is considered that the use of an LDO to restore permitted development rights removed by an Article 4 Direction is not appropriate for the appropriate mechanism would be for the LPA to cancel the Direction and, if appropriate, make a new Direction.

#### Undertaking of Specific Works

Essentially a LDO could permit the undertaking of minor works to dwellinghouses, currently requiring planning permission, where this preserved or enhanced the character of those buildings. Whilst it is recognised that LPAs tend to wish to extend controls in Conservation Areas through an Article 4 Direction and there will be opposition in principle to the relaxation of such controls, there are considered to be situations where particular works accord with specific guidance, or are so minor as to have no particular impact. In such circumstances a LDO could usefully permit such works.



## Principles to Observe

**Conditions** – Appropriate conditions will need to be imposed on the LDO to prevent or overcome any potential adverse impacts. The type of condition will depend on the nature of the LDO but it is likely they will have to be prescriptive and refer to appropriate design or Conservation Area guidance.

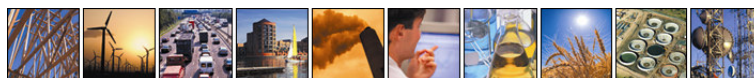
## Monitoring and Implementation

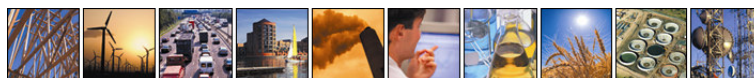
It is considered that provided the conditions imposed on the LDO are clearly worded, explicit and, where appropriate, linked to approved guidance then both implementation and monitoring should be straightforward. However difficulties may occur if the LPA is not prepared to sufficiently relax control and agree the extent of works that are permitted, particularly as these relate to issues of design and impact on character which are so often matters of individual opinion.

## 5.3 Conclusions

LDOs could potentially provide a proactive management tool in a variety of development situations. A range of potential circumstances in which LDOs may provide an appropriate solution to a range of development and regeneration objectives have been identified in the course of this short project. These have been raised by stakeholders who can see the potential for LDOs to make a valuable contribution to a modernised planning system. The ideas contained in this chapter may warrant further investigation and evaluation. However, the benefit of additional theoretical work on LDOs is probably limited.

Further development, discussion and dissemination of the potential for LDOs in different contexts needs to be facilitated by Government and the Planning Advisory Service as part of a co-ordinated programme of Pilot LDOs. Practical support needs to be given to LPAs to enable them to develop an evidence base of LDO practice to encourage wider take up of LDOs.





## 6. Making a business case for LDOs

### 6.1 Introduction

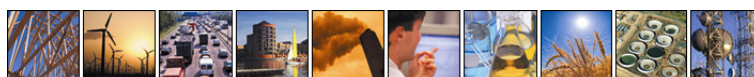
For LDOs to become a popular and effective planning tool, the business case for LDOs needs to be a strong one. LDOs need to provide clear benefits to planning system users and service providers alike, which significantly outweigh the costs of their preparation and the risks of unforeseen impacts from development permitted under them.

A business case has already been made in a strategic sense nationally by Government, both in the introduction of LDOs in the Planning and Compulsory Purchase Act 2004 and more recent Planning Act 2008. However, since the power to make LDOs is a permissive one and so relies on local planning authorities to make the decision on whether to make one in their authority area, a locally relevant business case needs to be considered by local authorities.

The key elements of a local business case for LDOs will include the costs and benefits of LDO processes, operations and outcomes on planning system *users*, planning system *providers* and *outcomes in the environment*. Benefits to users will include clearer and quicker processes governing developments permitted by LDO, and greater certainty. Benefits to providers could include resource savings in managing development under LDOs. Benefits to outcomes in the environment could potentially include delivery of development plan objectives in a positive way.

The costs and benefits of an LDO in a particular situation will include resource, time and qualitative elements, such as policy objectives, community engagement, service performance and environmental outcomes. A decision to prepare an LDO in a specific circumstance will therefore be made by a local authority taking into consideration a number of factors, including the key aspects of cost impacts, service impacts and policy outcomes in the environment. It is possible that different levels of benefits will be experienced for different aspects of change – the challenge will be to deliver LDOs which provide benefits across all key aspects:

- Resources will be required to prepare the LDO and any other guidance or agreements which will be attached to it. This will need to be spent well in advance of the benefits which may accrue through implementation. However, in the longer term, there should be resource savings through implementation. Local authorities will examine whether there are incentives to prepare an LDO and also take into account other priorities;
- Time will also be an upfront investment. As indicated elsewhere in this report. In some circumstances, the statutory LDO process, a potential EIA, supporting guidance such as a design code, and consultation could last two years. Significant time benefits will be achieved afterwards, through implementation on potentially every development under the LDO;
- Qualitative costs and benefits need to be carefully managed. An LDO will specify a range of development permitted under it, subject to conditions and other guidance as appropriate. The balance of freedom to develop under the LDO and guidance to specify and condition it will be a matter of risk



management in terms of the benefits that will result against the potential harm if ‘bad’ development results;

- A local authority will also be likely to weigh the case for an LDO by taking into account member and public views. It will also take into account the performance of the current approach. They may ask if there is a compelling reason to take the ‘risk’ (as it is currently undoubtedly perceived).

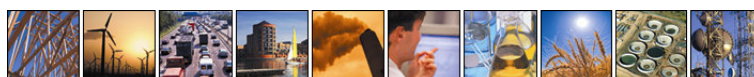
## 6.2 Business Case Template

This section sets out an outline template for assessing the business case for LDOs locally. Clearly, in the absence of real-life LDOs, this has been produced as a first attempt, to stimulate thinking and further development which can hopefully inform its further development.

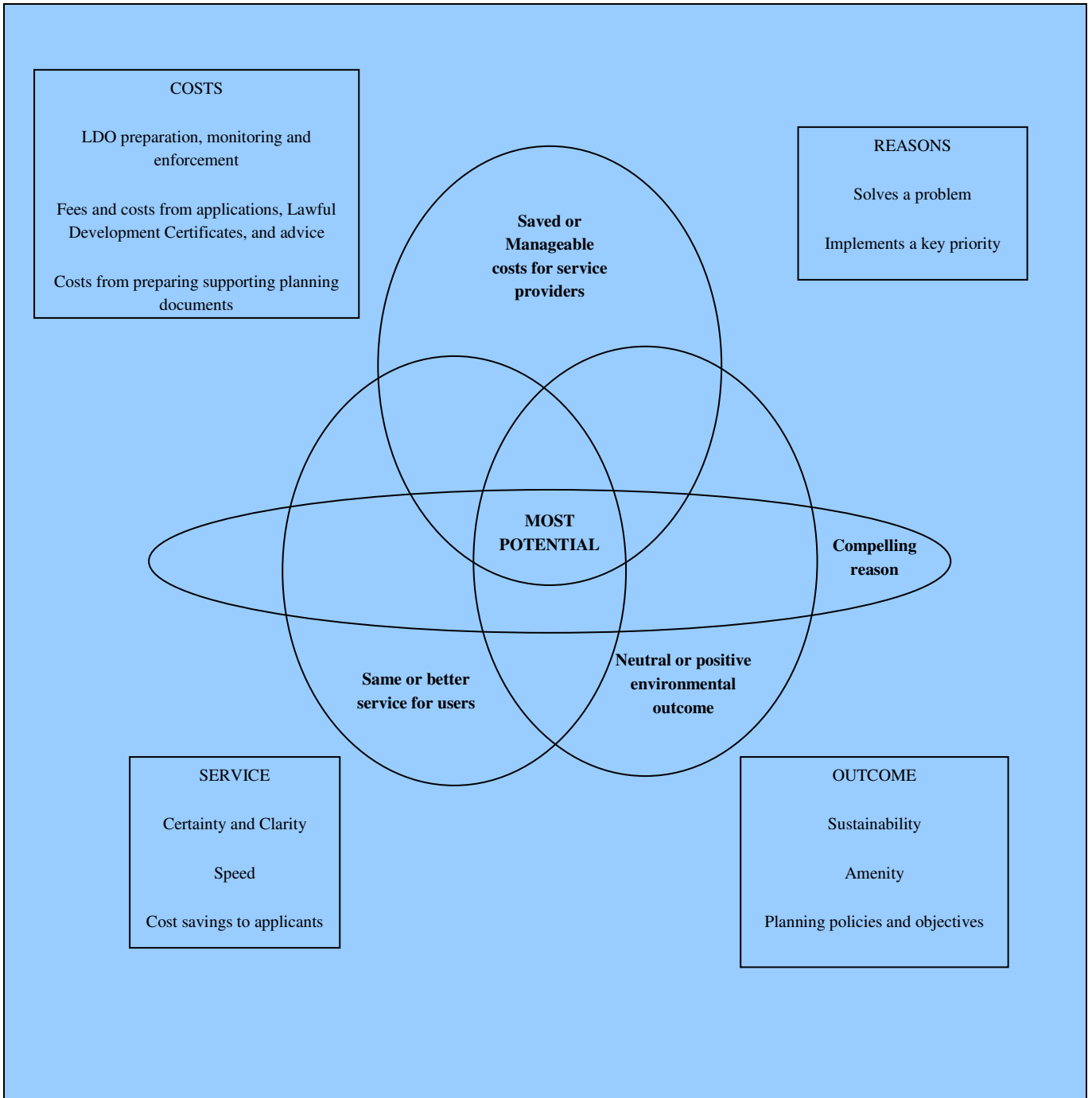
In setting out elements of a template for a business case, four key assumptions have been made about the LDO process:

- First, each stage of the LDO process offers the potential to achieve benefits. This is founded on the assumed principle (which we hope would not be challenged) that all interactions between service providers and service users/stakeholders about the potential to achieve positive benefits from service development (in this case LDOs) should have the potential to provide benefits from the interaction;
- Second, the costs of developing LDOs should not be so prohibitive to local planning authorities so as to make them unattractive to enter into, outweighing any benefits. Currently, stakeholder feedback indicates LDO costs are a particular barrier to take up. We need to find ways to demonstrate a business case for LDOs, to mainstream costs as much as possible and to share costs where appropriate;
- Third, LDO preparation time should be considered as an investment which yields returns over a longer period, to the authority, to applicants and wider stakeholders;
- Fourth, the LDO process is a process which grants planning permission and as such needs to be entered into carefully and with due regard to the potential benefits and impacts which can arise as a result of development under an LDO.

LPAs will need to take into account a range of factors in making a decision on whether or not to make a Local Development Order. These will include short term, process-related factors such as cost, timescale and complexity of process. They will also involve the consideration of implementation-based factors should as monitoring, enforcement and application-process effects. Finally, they will need to consider longer term effects of LDO-based development on the quality of the built environment and of the interest of users and stakeholders of the planning system. As figure 6.1 shows, the most potential for LDOs will arise where all key factors interact in a beneficial way.



**Figure 6.1 Factors to Consider in Evaluating an LDO Business Case**



## 6.2.1 LDO Preparation Costs

### Identifying the Components of the LDO

A fundamental first step in LDO preparation is the initial identification of the area to which the LDO will apply and development which will be permitted. How this is done could set the tone for developer and stakeholder reaction to the LDO, define the workability of the LDO over time and influence the potential costs in implementation, monitoring and enforcement. As indicated in Section 3 of the report, there are opportunities to work with key developers and others over the identification of the core purpose of the LDO. Also, the development plan and other local strategies will provide an important platform for the LDO. Because of the importance of this, it is probable that upfront research to examine the LDO context will be necessary.

### Sharing Costs

There appears to be some interest in LDOs among serial applicants in the planning system. There might be scope for such interested parties to promote LDOs to LPAs and take the lead in their preparation and resourcing. Where local authorities lead the development of LDOs, key beneficiaries of an LDO should nevertheless be encouraged to take part in its preparation, perhaps leading some of the development work and paying for key elements of the process, such as Environmental Impact Appraisal and associated studies.

### Integrating LDOs with other Plan-Making Activities

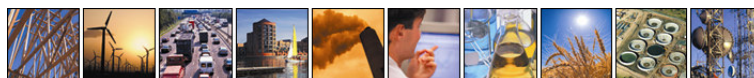
Consultation activities when undertaken in isolation can be resource-intensive. Where authorities have expressed interest in preparing an LDO, it has been invariably been part of LDF Core Strategy development and related consultation activities. This allows for LDO-related activities to be clearly linked to the development of the core strategy policies and has the added benefit of creating a more effective environment for consultation on the LDO, and a more cost-effective consultation.

### Understanding Monitoring Requirements

As far as possible, local authorities should ensure that their monitoring arrangement for LDOs are compatible and flow from their on-going monitoring. Bespoke arrangements for monitoring LDO implementation are likely to be costly and of limited use on a wider basis.

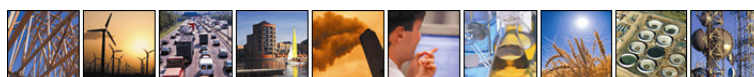
### Supporting Documents

Clearly the LDO is the core process which must be navigated through to adoption. However, it is entirely possible and likely that the LDO will be accompanied by supporting documents, such as design codes, planning conditions and Section 106 agreements. The time and costs of preparing these documents, which may be necessary to enable the LDO to function properly, will need to be factored into the business case.



**Table 6.1 Cost/Benefit Factors in the Preparation of LDOs**

Criteria	Notes	Current costs within potential LDO area	Projected costs within LDO	Balance of costs to LPA
Research to identify	Time and research costs associated with identifying and defining the LDO opportunity, boundary, parameters for permitted development	LDO area could already be a priority area for LPA.	Could be developer-led/ funded/ partnered. Otherwise, new costs to LPA	Net cost to LPA, off-set by partner contribution or existing work.
Informal Consultation	Work with community and users of planning services, in a specific LDO context	None, unless the LDO area is already an area benefiting from informal/formal forums for policy development	Net costs depends on the LDO area and focus and level of dialogue with developers and stakeholders in the area	Probable net cost increase to LPA
Statement of Reason	Report to set out details of objectives and purpose of LDO	None	New cost to LPA	Net cost increase to LPA
Draft LDO	Specific parameters and development limits, design and other guidance.	None, unless the LDO area might otherwise have other SPDs written for it.	If LDO replaces other planning document then net cost could be minimised, otherwise significant cost	Probable net cost increase to LPA
Environmental Impact Appraisal	Formal scoping of issues for EIA significance and Environmental Statement if required.	None	Depends on whether developers pay for it. May require provision of scoping opinion and no application fee to cover LPA costs of interaction over EIA.	Net cost increase to LPA
Formal Consultation	Formal consultation on Draft LDO, consulting statutory consultees and other interested parties	None, unless LPA is consulting on DPDs covering the LDO area	Potential to include with other consultation activities to minimise costs	Net cost increase to LPA
Secretary of State Consent, Register and Adoption	Limited activity awaiting confirmation of order or further information or rejection	None	New cost	Net cost increase.
Amendments to LDO	If required	None	New cost	Net cost increase
<b>Supporting Guidance/Tools</b>				
Further guidance	Eg Design Code, Village Design Statement, masterplan, Supplementary Planning Guidance, other SPD	There might already be planning initiatives and guidance documents capable of adaptation/use attached to an LDO.	Depends on what is currently in place for use with the LDO. Otherwise this is significant extra cost if deemed to be required.	Potentially a significant net cost to LPA if not already in place.
Section 106	Negotiated agreement to secure actions to mitigate impacts and secure community benefits from developments occurring under the LDO.	None	New cost off-set by savings in LPA interaction on each development thereafter.	Net cost increase off-set by implementation
Planning Conditions	A set of requirements which must be complied with in order for development to be permitted under the LDO.	None	New cost off set by savings in LPA interaction on each development thereafter	Net cost increase off-set by implementation



## Net costs

Table 6.1 above shows how current costs for some LDO elements will be nil, since they are specifically related to LDO processes and so will be new. However some costs, such as for informal consultation, monitoring and other supporting guidance could arise in some form already, reducing the net extra cost of work for an LDO. Monetary values could apply to these aspects to provide an overall evaluation of the resource benefits and impacts from LDO preparation.

## 6.2.2 On-going Costs and Benefits

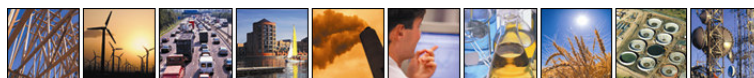
### Implementing the LDO

The cost savings from LDOs are expected to be delivered in the implementation phase, as each development that would have required a planning permission previously, takes place as development permitted by the LDO. The key factors which could influence how much savings are made in time and costs, and how much certainty is improved, relate to the 'strings' attached to the LDO. The conditions placed on the LDO could create the need for further information to be submitted prior to development commencing. The LDO might contain significant flexibilities which in the process create uncertainty of the extent or form of development permitted by the LDO. This could lead developers to seek certainty through Certificates of Lawful Development or other means. LPAs will need to judge with the developers in an LDO situation where the balance of flexibility and specificity lies, according to the benefits and risks each brings. Clearly, these are factors which could materially affect the benefits to be accrued from LDO implementation. Table 6.2 provides a framework for assessing on-going costs and benefits.

Linking back to the establishment of a clear objective, sensible area, and specific developments for the LDO above, a well defined LDO could create conditions for significant benefits to be realised in implementation by the avoidance of significant information provision or uncertainty.

### Monitoring the LDO

Monitoring is an issue which has caused some uncertainty among local authorities – how much is needed and how bespoke a monitoring arrangement will be required to oversee the implementation of LDO development? There is no clear experience on this to draw on. By and large it would seem appropriate to seek to monitor development taking place under LDOs as part of on-going monitoring arrangements and to avoid setting up a new monitoring effort geared solely to monitoring the LDO itself. Having said that, the nature of LDOs implies, within a strong framework established when the LDO is adopted, that regular informal dialogue and interaction is maintained to manage the implementation of the LDO. Further work may be required to support local authorities on the development of arrangements for monitoring of LDOs.

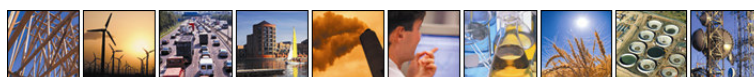


## Enforcement of Unauthorised Developments

Enforcement against unauthorised development which has occurred against an LDO backdrop will, as the Circular says, take place in the usual way. Local authorities have raised concerns that LDOs could lead to an increase in unauthorised development which could create a significant cost burden to local planning authorities, as well as significant impacts on planning system users who are being enforced against. Again, the groundwork undertaken with potential developers in an LDO context combined with a clear set of LDO development rules and parameters, and on-going dialogue, should provide conditions in which LDO-related enforcement activities is minimised.

**Table 6.2 On-going financial cost and benefit factors associated with LDOs**

Criteria	Notes	Current costs within potential LDO area	Projected LPA costs within LDO	Balance of LPA costs
Planning application processing	How much planning application processing cost arises currently within the LDO boundary and how much is estimated to arise following implementation of the LDO	Costs related to number of applications	Costs should go down	Net cost reduction
Planning application fees	How much planning application income arises currently within the LDO boundary and how much is estimated to arise following implementation of the LDO	Income derived from application fees	Income will reduce	Net income reduction
Lawful Development Certificates application processing	How much LDC processing costs arise currently within the LDO boundary and how much is estimated to arise following implementation of the LDO	There will be some current costs	Depending on clarity of rule, CLUD applications could rise	Net cost increase
LDC fees	How much LDC income arises currently within the LDO boundary and how much is estimated to arise following implementation of the LDO	There will be some income currently	Could increase with increase in applications	Net income increase
Giving planning advice	How much cost arises from giving planning advice to potential applicants of the planning process?	There will be an on-going cost to this	Would be expected to increase.	Net cost increase
Monitoring activities	How much cost arises from monitoring development activity within the LDO and what is the cost anticipated once the LDO is in force?	Should already be in place	Higher costs initially in order to monitor impacts	Net cost increase at first
Annual Report on LDO	How much cost will arise from the preparation of an AMR for the LDO?	No costs at present	New cost burden	Net cost increase
Enforcement Actions	How much cost arises currently from enforcement actions within the LDO boundary and how much is anticipated to arise once the LDO is in force?	Will be on-going costs on enforcement	Depends on clarity of rules, enforcement could rise	Net cost increase likely

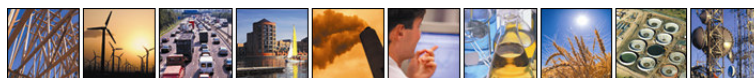


## 6.3 Conclusions

In evaluating a business case for LDOs, LPAs will need to consider a range of factors, including the important community and policy objective benefits that could be achieved against the resource requirements of preparing LDOs. They will need to consider carefully the scope and area of the potential LDOs in order to understand the amount of preparation that may be required, which could include a range of supporting guidance, conditions and agreements.

At all stages, if approached in the right way, there could be opportunities to off-set the perceived extra costs of preparation through linking LDO to other activities and by sharing cost burdens with key partners/stakeholders. The scope for this will depend on the circumstances of the LDO. Areas or sites which already are subject to strategic focus by an authority and or by landowners, developers or other institutions may have in place specific guidance which can be attached to an LDO. Forums may already exist with which dialogue about LDO potential can be explored. Partners may be willing to take on key roles to develop the LDO with or for the LPA. Elsewhere, LDOs may require significant new investment by the LPA to create support for the LDO, provide guidance and progress the LDO. Alternatively, LPAs may have very specific and detailed approach to developing LDO over a wider area, accomplished without supporting guidance.

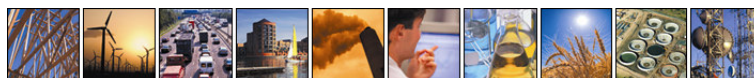
LPAs will need to manage the risks of allowing flexibility over development against the potential impacts arising from it. They will need to weigh the relative cost benefits and impacts. Further work is required to support LPAs on developing their business case on LDOs, drawing on experience gathered from local authorities who have prepared or are preparing LDOs. This argues for an initiative to support LPAs on the development of LDOs, from which learning can be gathered as they progress, so encouraging others.



## 7. Key conclusions and recommendations

### 7.1 Recommendations

- There is sufficient interest in the use of LDOs for a variety of purposes that it makes sense to put resources into activities which can further develop understanding of them and encourage active take-up of LDOs by local authorities;
- It is clear that, as far as local authorities are concerned, there will need to be significant financial incentives put in place to encourage LDOs to embark on making an LDO. There will also need to be significant support to encourage a small number to enter into LDO preparation;
- Stakeholders view the LDO process as difficult. They feel that there could be scope to streamline the process, including by removing the need to secure the Secretary of State's consent to adopt an LDO. Also, some stakeholders referred to the desirability of dropping requirements to report annually on LDO implementation/performance;
- A Pilots programme is widely supported as a way of providing a learning space for LDOs and to evaluate their role on a national basis;
- Development of the potential role of LDOs in specific circumstances should continue, to create discussion and debate about the use of this new form of development management;
- Although there is a small amount of evidence, it is probable that small authorities in rural areas will find it more difficult to promote LDOs locally. Planning is a significant activity in such councils and members view their planning role as one of their most important. LDOs may not be an attractive option in these settings. Consideration needs to be given as to how to promote LDOs among planning committee members;
- It is clear from the interaction with businesses through this project that there is greater interest in LDOs among them. This is to the extent that businesses might be prepared to get actively involved with the LPA in developing LDOs. A pilots programme should provide for the opportunity for business-partnered or led LDO preparation;
- A significant potential advantage of LDOs could be to provide a solid connection between planning permission through LDO to compliance to design codes or other design guidance. Further work is needed to explore the links between Design Guidance and LDOs and provide a solid platform for development of LDOs;
- Attention needs to be paid to the role of planning consultants in facilitating LDOs. Business users have referred to the reliance they place on their planning consultants for advice on approaches to development with LPAs. By and large, they are not so far being recommended to pursue LDOs by their consultants;



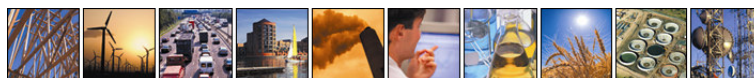
- Also, consultants play an important role in management minor planning applications for their clients, which has been evident in the health sector and to a lesser extent the university sector in this study. This makes it difficult to sell LDOs to those who would ultimately benefit.

## 7.2 Criteria for Pilots in a Pilots Programme

A Pilot LDO programme should be designed to draw out the full range of LDO potential. It should test the possibilities in organisational terms. It should seek to establish a cost-effective approach with a solid business case for LDOs. Finally, it should seek to establish pilot LDOs in a range of local authorities. Table 7.1 sets out potential criteria for selection of LDO pilots.

**Table 7.1 Potential criteria for selection of LDO pilots**

Key Criteria	Key attributes
LDO potential	<p>Pilots should address:</p> <ul style="list-style-type: none"> <li>• Serial minor developments in self contained areas;</li> <li>• Strategic development on a large site;</li> <li>• Minor development across a wide area to achieve policy objectives;</li> <li>• Mixed development in a defined area e.g. a town centre.</li> </ul>
LDO organisation	<p>Pilots should be organised so as to:</p> <ul style="list-style-type: none"> <li>• Develop an LDO closely aligned to adopted or emerging LDF policies;</li> <li>• Test the ability of businesses/developers to take the lead in preparing elements of the LDO;</li> <li>• Test the EIA procedures in relation to LDOs.</li> </ul>
LDO cost-effectiveness	<p>Pilots should be geared towards:</p> <ul style="list-style-type: none"> <li>• Sharing costs between LPA and landowner/developers;</li> <li>• Linking LDO development to on-going policy development and consultation activities;</li> <li>• Providing Supporting Guidance, Conditions and Section 106;</li> <li>• Providing stand-alone LDO without supporting documents.</li> </ul>



**Table 7.1 (continued) Potential criteria for selection of LDO pilots**

Key Criteria	Key attributes
LDOs in a range of authorities	<p>If possible, pilots should be drawn from a range of areas including:</p> <ul style="list-style-type: none"><li>• London Borough;</li><li>• East or South East District;</li><li>• South West Rural District;</li><li>• Northern Metropolitan Borough;</li><li>• Northern Unitary or District;</li><li>• County Council/New Unitary Council.</li></ul>
Community context of LDO	<p>Ideally, pilots should seek to cover a range of potential community involvement dimensions, including:</p> <ul style="list-style-type: none"><li>• 'Self-contained' communities of interest eg business parks or campuses</li><li>• Dispersed communities of interest eg specific developments over a larger defined LDO area.</li><li>• Mixed communities, for example where an LDO might stimulate development to aid regeneration, with a number of distinct communities of interest eg lead developers, local communities, public sector landowner etc (or town centres)</li><li>• Political communities – is it possible for LDOs to bridge political communities of interest to create an LDO which can survive political change locally?</li></ul>

