

So many of the promises of the Local Development Framework system have not been delivered that it must now be reformed, says David Lock

salvaging the LDF system



Whether the Conservatives can form a new Government in the next few weeks and abolish regional planning or not, all parties seem to be committed to some form of local plan-making at district or unitary level. The question is whether the system we are currently trying to take for its first ride round the block – the Local Development Framework (LDF) system – can be salvaged. Some people yearn, it seems, for a revival of the old Local Plan system. That old system, after many years of painful wasteful and damaging ‘learning’, was beginning to work when it was abolished by the Planning and Compensation Act 2004. You knew where you stood with a Local Plan, but for some people a Local Development Framework is inscrutable.

Readers may recall that the old Local Plan system required a local planning authority to go through various stages of survey, analysis and consultation to produce a Proposals Map and a suite of land use policies for the whole of the authority’s area. Objectors to the proposals or policies had the right to be heard by an independent Inspector at a formal Public Inquiry, at which evidence had to be given and could be cross-examined – after which the Inspector would recommend adjustments to the proposed Local Plan, which the council was supposed to accept unless it had good planning reasons.

Cynical games were played to drag out the process, typically for 11 years or so, and some proposed Local Plans – Unitary Development Plans (UDPs) for unitary councils – were so spectacularly ill-judged that tens of thousands of objections were lodged and the resulting Inquiry went on for a year or more. Eventually, however, the system started to bed down, and revisions of Local Plans (and UDPs) started to go quickly. So the Government abolished it and started the LDF system instead.

The main differences promised by the LDF system were that it would be evidence-based, front-loaded, and faster because objections can only be made to the ‘soundness’ of the plan and not its actual content.

The inquiry stage is an informal ‘examination’ by the Inspector, in the style of a roundtable discussion designed to discourage the involvement of lawyers, and the Inspector’s recommendations are supposed to be binding. The new system is most readily explained in PPS12: *Local Spatial Planning* (June 2008).¹ It is basically a plan-making steam-roller, but the driver must be able to assert that the use to which it is put is reasonably justified. Even though the LDF system has been tweaked (through *The Town and Country Planning (Local Development) (England) (Amendment) Regulations 2008*), many of these promises have not been delivered.

First and unsurprisingly, given that planning is both an art and a science, it has proved impossible to underwrite everything in an LDF with ‘evidence’. Some things are not capable of being evidential – sometimes informed guesswork or professional judgements are needed (I think design is needed, too, but I run ahead of myself). And no-one has enough money to gather enough evidence anyway. So being under pressure to get some LDFs approved, the Inspectorate has decided that while evidence must be gathered to inform what is in the plan (and not be drummed up later, *post hoc*), ‘evidence-based’ can mean in practice that evidence need only be ‘proportionate’.²

Second, ‘front-loading’ turns out to be practised too often by everyone except the local planning authority. Although ‘evidence should be complete on submission’,³ it has become normal for local planning authorities to produce new evidence long after their documents have been submitted for examination, and to continue producing new reports, surveys and data like rabbits out of a hat right through the examination itself. This wrong-foots everyone, and is wrongfully permitted by Inspectors, who amiably allow such stunts to keep the LDF show on the road.

Third – and, I think, partly because ‘evidence’ implies hard fact and partly because of the lingering shadow of the ‘sequential approach’ to locating development that was cursed upon us for some years – the *design* of spatial strategies is absent. There is no consideration of the design of the local authority area – of the urban forms and connectedness; of the physical, social and economic geography; of the spatial limits to be placed on the growth of towns

and villages; and of their mutualities, clusterings and competitiveness. We typically are jumped from 'evidence' about, say, how many thousand houses are needed, to blobbing these houses on the next available field at the edge of town. No-one is designing the council's space as a living system with a past, present and future.

This absence of what we could call strategic design at the local level could perhaps be why the taking of fresh land for development often appears to be (and often is) arbitrary, ignorant, insensitive, and unsustainable. In town expansion, proximity is mistaken for accessibility. Worse, the spatial strategy it is not future-proofed at all, in the sense that there is no answer to the question: 'What happens in the *next* plan we have to make?' In fact, the question is rarely even asked.

Fourth, the fact that objections are only permitted on the 'soundness' rather than on the content of the plan is a bizarre construct. There are eight 'tests of soundness', like something out of the Lord of the Rings, of which the key ones are whether the proposals are 'justified', 'effective' and 'in accordance with national policy'.⁴ When a member of the public just wants to say that he does not want development in the field adjacent to his house, or a developer wants a policy to say 'minimum' rather than 'maximum' on the subject of more homes, it is convoluted intellectual acrobatics that are required to stay within the language of 'soundness'. It has not been a step forward for Plain English, for public participation, or for civic life to take us off into this world.

Fifth, 'faster'. Some local authorities have ignored the programmes they had agreed with their regional Government Office. Stages of plan-making have been stalled to avoid controversy at local election time, or unnecessary stages have been dreamed up to play for time, and local authorities who are serial underplanners – deliberately resisting new homes in some weird orgy of community self-flagellation – have broken the rules, sometimes shamelessly.

Last, Inspectors' recommendations have not proved to be binding at all. Councils have taken a pick'n'mix approach to them, and the Government has been unable or unwilling to do anything about it.

So far, the loudest voices in the debate about what to do with the LDF system have been the professional operatives, in particular the RTPi (who still speak as though most of their members were in public service), and the Planning Officers Society (who are what it says on the box). CLG's Chief Planner Steve Quartermain has also written in this journal on the subject,⁵ rather betraying his embattled defensive position by referring several times to us all as 'people out there'.

Even though some professional operatives have been involved in time-wasting, back-loading of evidence, obfuscation in public examination, and defying Inspector's recommendations, they tell us we must leave the LDF system alone. They do this for one very weak reason: that it was jolly hard work for them to start up the new system, and it would be jolly hard work for them to change it.

Poor dears. There is nothing in their position that considers the experience of the system by participants and the public at large, no consideration at all of what comes out of the process (not much, as a matter of fact, because of the recession which is covering up a multitude of planning sins). They show only a lofty lack of concern about the slipped timetables and a shocking disinterest in whether the world is better or worse for the LDF system, which seems to me to be a profoundly important question they should ask themselves.

So without an 'evidence base' to tell me whether anything good has happened 'out there' under the LDF system, all I can say is that if they want to keep the LDF system, it must be reformed. There must be evidence of conscious design of the spatial strategy. Timetables must be made statutory. Inspectors must not accept evidence after submission of the plan for examination. Inspectors must be given the time and resources to examine the plan properly, and recommendations must be truly binding. The list is short, but these are the bits that would make it work.

I also want to say that it should be made possible to object to the content of the plan, rather than just to the Jedi-like mystery of 'soundness', but I am still trying to work out the implications of that. Readers' views would be most welcome.

● **David Lock CBE** is Chair of planning and urban design consultants David Lock Associates, involved in very many LDF processes from every point of view. He is a Vice-President and Trustee of the TCPA. The views expressed here are personal.

Notes

- 1 This replaced Planning Policy Statement 12: *Local Development Frameworks*, published on 7 Sept. 2004, and *Creating Local Development Frameworks: A Companion Guide to PPS12*, published on 2 Nov. 2004
- 2 *Examining Development Plan Documents: Learning from Experience*. The Planning Inspectorate, Sept. 2009, para. 33
- 3 *Lessons Learned Examining Development Plan Documents*. The Planning Inspectorate, Jun. 2007, p.5
- 4 *Examining Development Plan Documents: Soundness Guidance*. The Planning Inspectorate, Aug. 2009 (Second Edition)
- 5 S. Quartermain: 'Planning with confidence'. *Town & Country Planning*, 2009, Vol. 78, Dec., 518-21