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Change, Rigidity & Delay in the UK system of land-use development control*

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Abstract

The British system of development control is time-consuming and uncertain in outcome. Moreover, it is becoming increasingly overloaded as it has gradually switched away from being centred on a traditional 'is it an appropriate land-use?' type approach to one based on multi-faceted inspections of projects and negotiations over the distribution of the potential financial gains arising from them. Recent policy developments have centred on improving the operation of development control. This paper argues that more fundamental issues may be a stake as well. Important market changes have increased workloads. Furthermore, the UK planning system's institutional framework encourages change to move in specific directions, which is not always helpful. If expectations of increased long-term housing supply are to be met more substantial changes to development control may be essential but hard to achieve.

Introduction

Development control (DC) is the end product of any land-use planning system as it approves the structures that are actually built. In many countries, the process is fairly automatic as there are pre-given rules, such as zoning and building ordinances, so DC is primarily an issue of whether those rules are being conformed to by development proposals. Evaluation is far more complex and uncertain than that in the UK. Under British planning laws, with some minor exceptions, each development is subject to detailed scrutiny and judgement by the relevant local planning authority and there is considerable discretion over whether to grant or refuse permission.

Housebuilders and other developers for many years have complained about the slowness and uncertainty of this part of British planning system.¹ But over the past decade the scale

¹ See, for example, Hall et al (1973).

and pace of complaint has escalated. There have been a substantial number of official initiatives and reports, which have focused on DC as part of an emphasis on speeding up the planning process, as will be surveyed later.

What is striking is that the key emphases of these initiatives and reports take a similar perspective that the existing system can be managed better. The key to improved management is to set clear objectives and then achieve them with an appropriate mix of incentives, better qualified personnel and financial resources. Increasing the number and quality of planners in development control is universally agreed upon. The remaining question is what instruments are the most appropriate?

Managerial reforms may improve performance but trade-offs of objectives are inevitable. For example, the Audit Commission has argued that attempts to speed up delivery may affect the quality and effectiveness of the planning process, especially with regard to larger developments (Audit Commission, 2006). In fact, the issue is far wider. Planning controls in the UK, as with any other national system, are based on a tension between competing demands. DC as a process always contains a compromise between, on the one hand, the speed of decision making and, on the other, the comprehensiveness of the evaluation process. In other words, for a given level of operational efficiency, the quicker the decision, the lower is likely to be the range of information and other inputs into the process, including public involvement. There is also a further tension in DC between the predictability of outcomes for applicants and the flexibility of the evaluation process. Other things being equal, the greater the standardisation of the processes involved and the higher the commonality of the criteria upon which decisions are made, the less is the discretion remaining for the decision taker and, hence, the scope available for negotiation with the developer.

Such tensions underpin the broad division in planning systems throughout the world into zoning-based approaches and those systems, such as that existing in the UK, which are based around the principle of local decision-making discretion on a case-by-case basis (Booth, 2003). Though a division of all land-use planning systems into two such broad 'families' is a simplification, it is a common and useful heuristic which will be employed here (Newman and Thornley, 1996). Given the trade-offs inherent in the design of planning systems and the heterogeneity of interests with regard to the outcomes of planning processes, any approach to land use regulation is inevitably going to be 'imperfect' to a degree.

The choice of appropriate policy instruments is consequently not solely a technically-oriented managerial issue but also more fundamentally relates to what the planning system and the various parts of it should be doing. Policy debate also needs to take on board the changing contexts into which the planning system intervenes, including shifting agendas over the benefits of regulation (e.g. growing concern with climate change) and the dynamics of real estate markets. Furthermore, development control exists within broader institutional frameworks that have political, organisational and cultural dimensions amongst others and they tend to make reforms path dependent. Attempts to improve the efficiency of DC may, therefore, need to try and overcome such path dependency; for instance, by questioning the growing accumulation of planning tasks that have been gathered together in DC as a result of earlier series of incremental events. The overall picture suggested here is one of increasing overload within DC.

The purpose of this paper is to highlight the importance of these broader issues when thinking about reforms to the system of development control. It is not possible within the confines of a short paper to cover all such topics rather the aim is to suggest that reforms to development control are likely to be more successful if they evaluate and revise the tasks undertaken within it.

The next section briefly surveys recent DC policy developments and discussions; this is followed by an analysis of data with respect to delay; then, the changing dynamics of the new housing market and its influence on DC are examined; after certain institutional factors are raised, including the results from a survey of views of developers and planners with regard to their perception of DC problems. A concluding section draws together these themes.

Recent policy and debate over development control

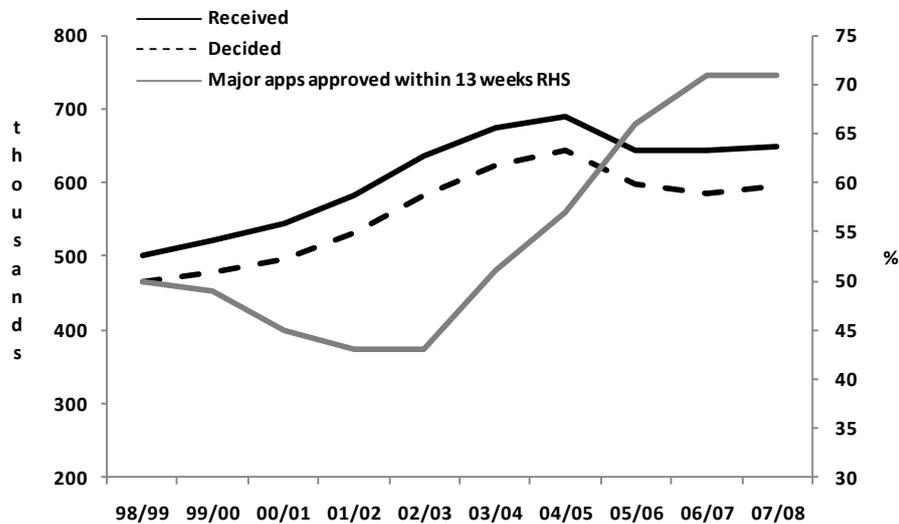
1. POLICY

The confirmation of discretion

The planning system deals with hundreds of thousands of planning applications each year and the number varies on a year-by-year basis, broadly in line with the state of the housing market (Figure 1). However, in respect of major decisions the number is far fewer. In the year up to June, 2007, at the peak of the last housing market boom, 9,800 decisions on

major residential developments² were made by local planning authorities (LPAs) in England, two-thirds of which were approved.

Figure 1: Planning applications England 1998/99 to 2007/08



Note: Most major applications refer to housing
Source: CLG

At the local level, the number is generally small. Only 8 English LPAs out of 374 altogether, including London boroughs, made more than a 100 major residential decisions in 2006. In fact, only 30 LPAs (8% of the total) made more than 1 decision a week on average and 40% made 30 or less decisions throughout the whole year. The average LPA has 29 staff posts in DC (ASC, 2007), though many will be dealing with minor rather than major applications at any point in time. Yet, as far as major residential developments are concerned, LPAs do not generally deal with a mass of applications. So, in principle, the exercise of discretionary decision-making is perfectly feasible; with scope for both local planners and members of planning committees to become involved in the details of major residential projects in their localities.

The discretionary nature of DC and the power of local planning officers and committees to have a significant role in decision-making with regard to specific developments has been both threatened and reconfirmed in recent years. Legislation first introduced in 1991, and amended in 2004, requires that any determination of a planning application ‘*must be made in accordance with the plan unless material considerations indicate otherwise*’ (S. 38(6) of the 2004 Planning and Compulsory Purchase Act). However, the impact on DC of this

² Those involving 10 or more dwellings. Source: CLG Planning Statistics.

requirement has not been as great as it may formally seem. First, many local land-use plans provide little certainty or guidance on permissible development because they are either out-of-date or too general in content to be relevant. Second, formal plan revision has proceeded very slowly and the majority of the new style plans are unlikely to be adopted until 2011, some seven years after the 2004 Act introduced them (Barker, 2006a: 102). Third, DC decision makers can still decide that 'material considerations' relating to a particular development outweigh the policies and intentions of the formal development plan. Section 70 (2) of the 1990 Town and Country Planning Act provides that, when dealing with a planning application, local planning authorities '*shall have regard to the provisions of the development plan, so far as material to the application, and to any other material consideration*'. The courts have held that the expression '*shall have regard to the provisions of the development plan*' does not require that the plan need to be slavishly adhered to. Fourth, so much development now takes place on brownfield land where the principle of development is *de facto* in place, but the content of that development remains subject to local discretionary evaluation. Fifth, there is no pressure at all to consolidate decision-making into more viable, larger professional planning units. Instead, national politicians vie with themselves over the importance they attach to local democracy in this sphere, with recourse to the national appeal system regarded as sufficient safeguard against inappropriate decisions.

The courts have long supported local authority and professional discretion in the exercise of their functions. Shortly after the inception of the modern British planning system, in the case of the *Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation*, [1948] 1 KB 223, Lord Greene ruled that unless a public authority had acted 'unreasonably' then the courts would not intervene. As Booth (2003) points out, such discretion echoes the English common law tradition and underpinned the approach of the 1947 Town and Country Planning Act. With a few notable exceptions,³ subsequent changes to planning legislation have sustained this discretionary element in dealing with individual planning applications.

Discretion brings the benefits of 'flexibility', according to its supporters (Cullingworth, 1975). Flexible responses can be applied with regard to the regulation of specific developments; or to enable changing circumstances to be brought to bear rapidly in

³ Enterprise Zones, Simplified Planning Zones and, latterly, Local Development Orders are examples of combined 'plan and permission' approaches that sit uneasily with the mainstream UK discretionary system (see Allmendinger, 2003).

decision-making; and, more widely, flexibility is said to assist the achievement of the aims underlying planning policy goals. Such claimed benefits of flexibility are inherently denied by zoning ordinances, because they generate fixed rules and clearly defined spatial areas; apply to all developments; and hold for long periods of time without change (Booth, 2003).

Nevertheless, flexibility comes with costs as well as benefits. An important one in the context of planning delay is the greater time required to evaluate individual projects in comparison to a pure zoning system. Furthermore, not only are there consultations over the constituents of land-use plans, as is common in zoning-based systems, but also further consultations over every proposed individual development at the time when applications for planning permissions are made and, furthermore, frequently for all subsequent re-applications and other amendments to initial proposals. Such greatly extended consultation processes are inevitably highly time-consuming.⁴

Process changes

On the process side, there has been a flurry of activity: with DC reforms largely centred on monitoring, incentives and skills shortages.

Reform of planning through performance management has been part of wider attempts to modernise local government and public services. In line with policy towards other services, the new DC performance indicators were linked to financial rewards through the offer of significantly higher levels of Planning Delivery Grant (PDG) by central government to those planning authorities meeting prescribed targets.

Over £600m was paid to local authorities in PDG in the five years up to 2007-8, so the sum is substantial. By no means has all of it been spent on DC but on other aspects of planning as well. The grant itself is hypothecated but the other moneys local authorities spend on planning are not, so additional PDG may have led to a decrease in other local funding for planning. Nevertheless, ostensibly the target is more than achieving its aims. 71% of major applications were decided within the 13 week target in 2007/08, up from 43% six years previously in 2002/03 (Figure 1). Unsurprisingly, there is suspicion that targets linked to resources encourage strategic behaviour on the part of local planning authorities (Carmona, 2003a, 2003b; Audit Commission, 2006). As targets are for a 'decision' within a set time

⁴ It should be stressed that zoning-based systems are no panacea. They tend to be inflexible and whilst they provide greater certainty, the plans themselves tend to take longer to prepare (Newman and Thornley, 1996).

period, local authorities can refuse applications - or ask for them to be resubmitted - thereby meeting targets rather than attempting to negotiate acceptable solutions within one application. However, the official government evaluation of PDG found 'a lack of statistical evidence' to support this contention (CLG, 2006).

Additional factors arise from the dual nature of public responsibility that often exists for specific planning matters, which are divided between the planning authority itself and the statutory bodies often empowered with advising on and policing one or more of issues, such as the Environment Agency with regard to flood risks, the Highways Agency with roads impacts, and the Nature Conservancy and others in respect of wildlife matters. Every major planning application may require such consultations and associated negotiations and developers frequently complain about the resultant delay. The scale of activity in some of these bodies is substantial: for example, the Environment Agency employs 250 planners to scrutinise around 50,000 applications yearly. Since 2005, statutory authorities have also been required to make responses to DC requests within 21 days and are monitored to see if they do. Once again, they seem to more than surpass targets, though with concerns over whether behaviour has fundamentally altered or simply adjusted to the target criteria (Audit Commission, 2006).

In addition, in recent years a Planning Advisory Service has been set up in England to provide information and analysis to LPAs. There is also a new Advisory Team for Large Applications (ATLAS), set up within English Partnerships, and it concentrates on speeding up large-scale residential developments in the Midlands and southern England upon request from LPAs. LPAs and developers are encouraged to sign up to Planning Performance Agreements in relation to large schemes.

In response to skills shortages, grants have been introduced to increase the number of qualified planners to overcome perceived shortages and high levels of staff turnover (Audit Commission, 2006; House of Commons CLG Committee, 2008). The Academy for Sustainable Communities (ASC) has estimated that there will be a 46 % shortfall of staff in local government planning by 2012. Statutory bodies are similarly plagued by planner shortages.

Finally, applications for planning permission now incur substantially increased fees to help fund local planning and to incentivise LPAs. In addition, a national standardised application form has been introduced.

2. DEBATE

As well as the existence of a significant academic and policy lobby literature,⁵ there have recently been a substantial number of government and public agency inspired studies. The Barker Reviews of Housing Supply and of Planning (Barker, 2004a & b and 2006a & b) expressed concern over the impact of delays and argued that they contribute to the low price responsiveness of English housing supply. The Audit Commission (2006) has been critical of development control but worried that a concern with speed damaged other DC aims. It also recommended much greater devolution of DC functions to private agencies in order to improve speed without compromising service. The Callcutt Review (2007) of housebuilding delivery recommended greater partnership working between local authorities and developers to speed up housing delivery. The Office of Fair Trading (2008) in its report on competition in the housebuilding industry argued that uncertainty and delay in DC required housebuilders to hold larger stocks of land. Two government departments, BERR and DCLG, in 2007/8 combined to instigate the Killian-Pretty Review of Development Control, which was due to report towards the end of 2008. The National Audit Office was also at the time of writing about to report on its own study of national policy towards improving DC. In five years, therefore, there were probably more official investigations of DC than for the previous 50 plus years since the introduction of the modern UK planning system.

Evidence on planning delay

National data on planning permissions suggest that the bench-marking system introduced to monitor local authority performance in processing planning applications has been successful in raising performance, as noted above. However, such targets do not measure the length of time taken for a specific project on a land site to pass through DC. Three reasons suggest that the time taken by sites is likely to be longer than that measured with respect to individual permissions. First, multiple planning applications are often required for sites. This can mean that targets for individual applications can be met even though a site may take many months or possibly years to achieve permission. Second, applications can involve lengthy pre-application negotiations prior to a proposal being submitted. Consequently, for accurate measurement of planning delays, schemes have to be followed through from initial

⁵ See Ball et al, 2008 and the Killian Pretty Review (2008).

enquiries to final permissions to understand the full extent of the time taken to progress a development through planning procedures. Finally, even once permission is granted there will usually be a number of stipulated requirements and conditions that have to be met – which can run into the hundreds in the case of large schemes. Local authorities require applicants to demonstrate that they have met these conditions before any building work can legally commence. It is open to them to transfer to such conditions matters that might otherwise have been dealt with under the rubric of a planning application, thereby shortening the measured time of the latter.

There is little evidence on the time development sites take to pass through DC. However, recent companion research to this paper has investigated this for a sample of 180 residential sites successfully completing the planning stage of development in 2006 (Ball, 2008; Ball, Allmendinger and Hughes, 2008). Only the time was measured from registration of an initial application to the final planning decision on a development prior to building. As a result, the time required for pre-application discussions was excluded as was the post-application meeting of stipulated conditions, due to measurability problems. However, both add considerable amounts of time in their own right to delay.

The sample included most of the major schemes approved in the year for 11 local authorities in Berkshire, Hampshire and Oxfordshire, an area of southern England with a high level of demand for residential development land and strong local political resistance to providing it in all but the most politically acceptable locations.⁶ This study found that, on average, over two planning applications were required per development site and that the median for total time in the planning system for a residential development was almost 11 months - far longer than the measured 13 week target for individual planning permissions for major residential developments. Only 8% of sites were processed within the 13 week target and only a fifth within 20 weeks. Yet, most of the sites examined delivered only a handful of new dwellings and, so, would not seem to be particularly onerous or time-consuming schemes.

Further analysis indicated wide variations in the times specific local authorities took to process equivalent schemes through DC, with the worst taking almost four times longer than the best. The reasons for such large variations are likely to arise from a variety of local 'institutional' factors, such as the culture of the planning authority; local politics and their

⁶ The authorities were Basingstoke, East Hampshire, Eastleigh, Guildford, Hart, Portsmouth, West Berkshire, Winchester, Wokingham, Reading, Slough, Vale of White Horse.

influence on planning committees; relative efficiency; how well authorities signal preferences to developers; how easy the authority is likely to change its mind when developers put in further applications or appeals; and the propensity of developers in a locality to challenge the planning authority or continue to negotiate with it.

Overall, these site-based results suggest that the time development proposals spend in DC is significant and, what is more, that there are considerable variations between the performances of particular local authorities suggesting that attempts through targeting and monitoring by central government after almost a decade in operation have not been able to move many authorities towards best practice in DC.

Planning outcomes and market contexts

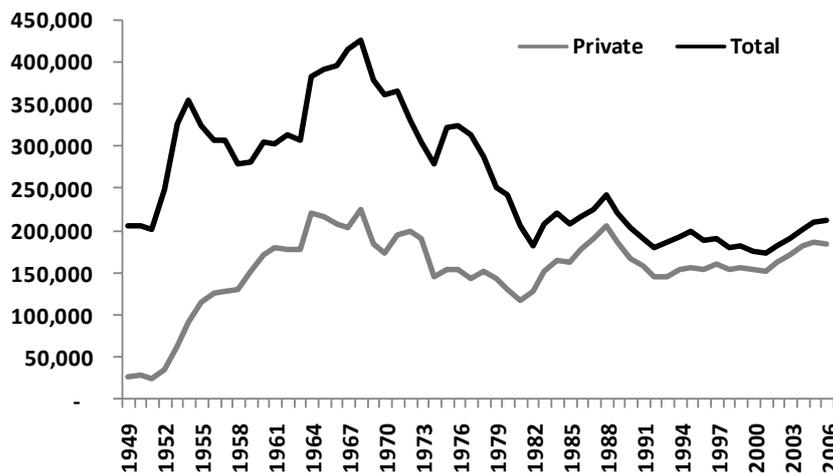
Criticisms of the complexity and delays inherent in DC have partly arisen because of the changing nature of housing development within the UK. Furthermore, market factors should not be seen solely as exogenous influences because planning policies have for a long time had a significant impact in shaping the operation of UK housing markets (Cheshire and Sheppard, 2005).

The first and most obvious temporal change is that aggregate housebuilding levels are far lower than they were in the 1950s, 60s and 70s. So, that DC is now dealing with roughly half the housing numbers it was forty years ago in the 1960s (Figure 2). Such a drop in volumes might suggest that matters should be quicker now, though the scale of current scale of complaint suggests otherwise. Unfortunately, there is no clear way of measuring the capacity of planning departments to process planning applications over time in order to derive evidence of DC productivity, measured in terms of either the number of sites examined or dwellings approved.

Certain factors in any case are hard to measure. In the 1960s, for example, it could be argued that development was a more central concern of local government than it is now, which would have given it greater purchase within local political machines. Many local authorities also had substantial housing departments that built almost half of the dwellings then being constructed. They would have been powerful allies of planning departments and would have encouraged many LPAs, though by no means all, to adopt pro-development frames of mind and the skills sets to go with them (Dunleavy, 1981). By the 1990s, council housebuilding had dropped to virtually zero. Private housebuilding was itself almost a fifth down on its 1967 peak in 2006 (even more so in terms of land acreage, see below), but it no

longer had such a powerful ally concerned with speedy development within many local authorities themselves. One of the aims of recent government policy has been to bring planning back more strongly into the centre of local government activity (Audit Commission, 2006; Planning White Paper, 2007).

Figure 2: Housebuilding in the UK, 1949-2006



Source: CLG

Changing development sites and declining DC productivity

Two underlying characteristics of national planning policy over the past decade have been an emphasis on higher densities (more dwellings per hectare) and a growing role for brownfield sites. Both have been strongly supported by local planning authorities and they have significantly affected the number and type of projects dealt within DC.

Housebuilding densities per hectare rose substantially in the first half of the 2000s (Table 1). In respect of all residential land, densities rose by 42% between 1999-2002 and 2003-2006. However, this overall change belies significant differences between classic greenfield land, i.e. that previously in agricultural use, which experienced a 20% rise in densities, and classic brownfield land, i.e. that which was previously vacant or derelict, where densities rose by a substantial 71% over the same period.

These higher density requirements were principally a consequence of changes in planning policies. However, they were temporarily made feasible in terms of market acceptability by the boom in the building of blocks of small flats; a boom which abruptly ended with the credit crunch that started in the summer of 2007.

Table 1: Changes in residential densities & previous land-uses of residential building land

England

	<u>1999-2002 average</u>		<u>2003-2006 average</u>	
	Dwelling Densities (dwell. per hectare)	% of Total Housebuilding Land	Dwelling Densities (dwell. per hectare)	% of Total Housebuilding Land
Previous agricultural land	20	33	24	29
All brownfield	29	53	44	61
Of which: Vacant-derelict land	31	22	53	21
All previous uses	26	100	37	100

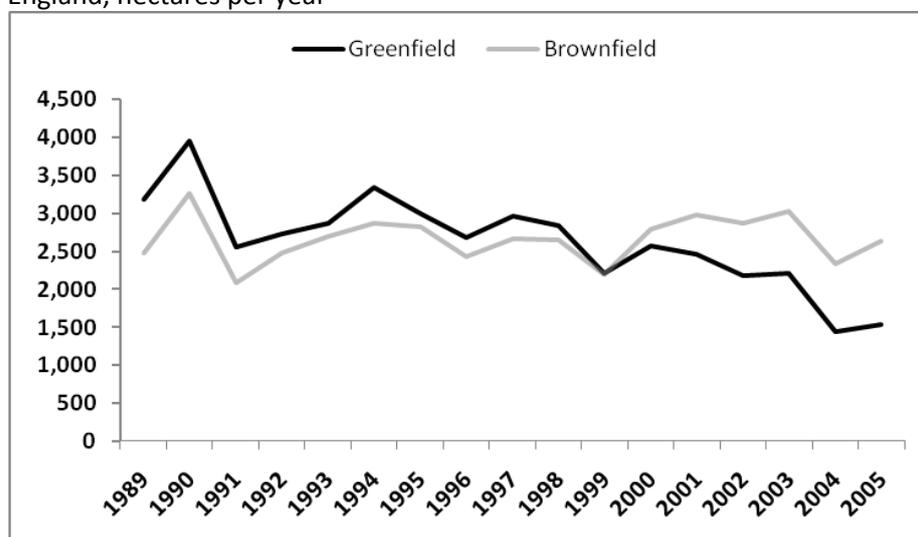
Source: CLG Planning Statistics

There has been a significant drop in the amount of land used for housebuilding in England since the mid-1990s. The fall in land used for housebuilding can be seen in Figure 3.

Brownfield acreages have been static on a trend basis but there has been a precipitous fall in the amount of greenfield land used, halving between 1994 and 2005. Overall, the amount of land used for residential building fell by a third.

Figure 3: Land-use for housebuilding: brownfield and greenfield

England, hectares per year



Source: CLG Planning Statistics

When examining changes in the types of land used for housebuilding, it matters whether dwelling or land information is examined because of the intervening density changes. In terms of new dwellings, the overall percentage of dwellings built on brownfield land rose from 60% to 71% between 1999-2002 and 2003-2006, comfortably surpassing government planning targets. However, because brownfield land was being built out at much higher

densities, the percentage increase in the share of brownfield land acreage was less, rising by only 8 percentage points from 53 to 61%.

One purpose of presenting all these land-use statistics is to make an important inference. The sharp fall in acreages of housebuilding land at a time when there has apparently been substantial growth in expenditure on DC suggests that significant declines have occurred in DC productivity over the past decade, when measured in terms of throughputs of residential land. Such a productivity decline would help to explain the unprecedented interest currently being taken in DC, as noted earlier, and it may have occurred for a number of reasons.

First, the growth of high density, brownfield land as a share of sites considered within DC has altered the workloads of planning departments. Many brownfield developments are relatively small in scale and contain bespoke blocks of flats. They will often also be at relatively central, inner city locations of interest to most councillors sitting on planning committees. Consequently, it is difficult to set standard rules with such schemes, so that DC workloads, referrals and resubmissions are likely to rise as a result. The earlier cited companion study found that small sites were particularly DC time intensive (Ball, 2008).

Second, such brownfield sites will often be so-called 'windfall' ones, arising from the closure of a factory, a public facility or a transport node. As such, they will not necessarily feature in the local development framework. In addition, although the data are unavailable to prove it decisively, the number of separate sites local planning authorities have to deal with to achieve a given level of new housebuilding is likely to have risen significantly because of the small-scale, fragmented nature of much contemporary brownfield building compared to the larger average size of sites prior to the 1990s.

Third, even with regard to greenfield sites, there is now far greater engagement of DC with the formulation of complex, high density schemes, compared to projects prior to the mid-1990s. Much of that complexity itself has been brought on by the growth in planning density and other requirements and associated design guidelines.

Fourth, additional requirements may have been added to the DC process, which extend the time required for any particular evaluation. This factor is considered later.

Fifth, and finally, for some reason or other planners may have become much worse at doing their jobs over time. There is extensive evidence of the difficulty of recruiting and retaining sufficient competent staff and indications that DC efficiency varies widely across LPAs, as

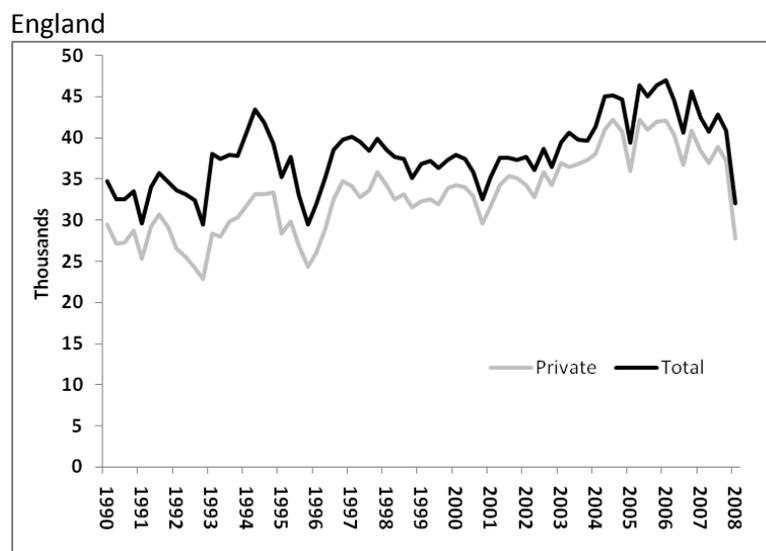
noted earlier. However, there is no clear reason why today’s planners should be performing their jobs any worse than in previous generations, or that planning committees are slowing applications down more frequently, or that management systems have deteriorated. In fact, the planning targets results would suggest opposite. What is far more likely is that the tasks associated with DC have become more onerous. The switch to higher densities, smaller average site sizes and brownfield sites have already been suggested as contributory factors and others will be suggested below.

The pressure caused by a housing boom and the rising cost of land

Much of the current pressure for greater speed in DC has come from the poor responsiveness of housing supply to a booming housing market during the upswing which lasted from 1996 to 2007. Between 1996 and 2002 private housing starts were actually flat, despite the rapid rise in the house prices over the period (Figure 4).

Housebuilding rates did improve in the latter years of the boom, with starts a fifth higher in its last three years than they had been around the turn of the century. However, as was noted in the previous section, much of this apparent increase was due to higher

Figure 4: Housing starts, 1990q1-2008q1



Source: CLG

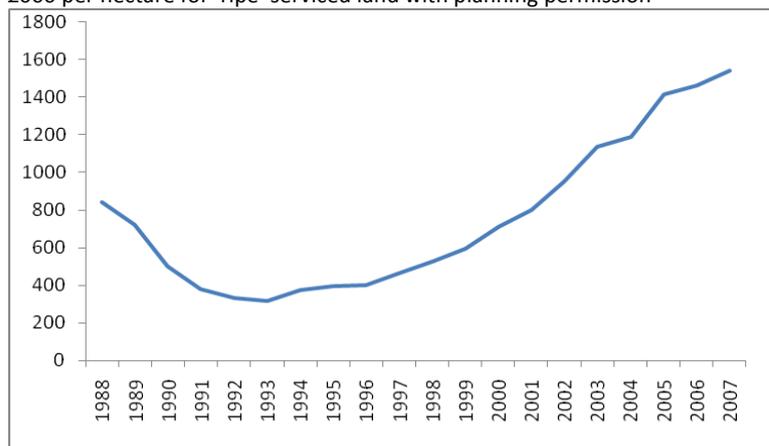
housebuilding densities, while the amount of land used for housebuilding actually fell. So, it is hard to claim that the barrier of planning constraint on housing supply was being overcome during those years. Rather, when measured in terms of land-use, the opposite was occurring and containment was increasing.

Unsurprisingly, given the degree of land shortage, residential land prices rose rapidly during the boom years, rising fourfold in real terms from their previous trough in 1993 to their peak in 2007, a much greater increase than for house prices themselves (Figure 5). By 2008 land prices were falling rapidly, so the last few years may have seen a bubble in the residential land market. However, this does not detract from the fundamental impact of planning constraint on land prices, nonetheless. Some planners (e.g. MacDonald and Kliman, 2007) have tried to suggest that rising land prices are caused by builders speculatively holding onto land but successive investigations have rejected such claims (Barker, 2004a; OFT, 2008).

Of importance to understanding the growing pressure on DC is the fact that rising land prices raise the cost of planning delay, because a higher value asset is being held up from productive use. Unsurprisingly, builders complained more about the costs DC imposes on their operations when the opportunity costs of land rise.

Figure 5: Real land prices 1988-2007

Eng & Wales ex London at 2005 prices
£000 per hectare for 'ripe' serviced land with planning permission



Source: VOA

The growing tasks and changing emphasis of development control

The requirements associated with evaluating planning applications have increased substantially over time. Moreover, the content of planning control is changing with implications for service quality and efficiency.

An increasing number of issues to evaluate

The number of issues which local planning authorities now need to consider both in preparing development plans and in DC has risen substantially. For example, Barker identified the following list of items (Barker, 2006a, 69):

- Access for disabled people
- Affordable housing
- Air quality
- Archaeological protection
- Contaminated land Crime prevention Circular 5/94
- Design of buildings
- Environmental Impact Assessment Regulations
- Gambling Act
- Gypsy and traveller sites
- Housing in multiple occupation
- Licensing
- Nature conservation
- Noise
- Planning obligations
- Pollution controls Environment Protection Act 1990
- Retail
- Sustainable development
- Telecommunications
- Transport
- Waste.

An underlying assumption of policy is that DC can cope with all these additions, which may be questionable. There is also no evidence that some requirements are dropped as others are added, so that their overall weight has grown over time in a snowball-like way. Such piecemeal increments of evaluation requirements, including UK government interpretations of European Union directives, are unlikely to have been considered in an over-arching systematic way, via periodic cost-effectiveness evaluations. Instead, path-dependency would have encouraged expediency in the face of pre-existing planning institutions and encouraged such snowball growth. On the face of it, for example, it is unclear why European environmental directives should lead to particular factors being considered when evaluating

individual applications rather than forming part of the more general local planning frameworks as in many other EU countries.

Rising levels of planning exactions

Part of the negotiations that take place between planners and developers relate to 'developer contributions': planning imposed requirements for green space, community facilities, infrastructure and other amenities, contributions to local authority expenditure and provision of social housing. All of these are negotiated as part of the discretionary basis of DC and implicit tariffs vary widely between local authorities and over time.

The scale and complexity of these negotiations have also grown over time. For example, s106 affordable housing completions rose from around 9,000 in 1999/2000 to 18,000 in 2004/05, 12% of all housebuilding in England; while permissions similarly doubled from 15,000 to 35,000. Furthermore, the majority were in higher value southern England (Monk et al., 2006; Burgess et al., 2007 & 2008).

The growing scale of such contributions increases the amount of negotiation required during the DC process. Moreover, as the negotiations are over much higher value outcomes they also more likely to be further prolonged as the parties try to strike the best bargains.

The impact of growing complexity on delay

Soon, these matters will be joined by others, including negotiations over a proposed Community Infrastructure Levy, assessments of whether new homes are 'zero carbon', and measures with regard to the flexibility of dwellings with respect to their liveability for all age groups under a life-time homes programme (Housing Green Paper, 2007). The merits of any of these policies are not under debate here, rather the purpose is to point out that DC has moved far beyond a traditional 'is it an appropriate land-use?' approach to one based on a multi-faceted inspection of the qualities of development projects and negotiations over the distribution of the gains arising from those developments. This has greatly increased the tasks undertaken in DC, ones which inevitably tax the competences of the limited number of staff that exist in most local authority planning departments. Most importantly, they absorb larger amounts of time, thereby contributing to planning delay. The likely greater volatility of the housing market in the future may also add to burdens and increase the need for urgency.

One reaction is for DC procedures to pass elements of the required evaluation back onto applicants. This takes the form of requesting reports on such matters from a wide range of expert consultants as part of the documentation associated with planning applications.

Moreover, when faced with such complexity – and the threat of legal redress or the costs of dealing with planning appeals if they make inappropriate decisions - local authorities are likely to take a ‘precautionary approach’ to planning proposals by requiring further supporting information, more frequent revisions to plans and schemes or attaching extensive conditions to approvals. Unsurprisingly, delay arising from DC grows alongside such precaution.

The result is that DC has become over time more of a process of managing and filtering a mass of information on proposed developments than an act of informed, individual officer decision-making. Defensive reactions within local DC policy-making to the extended range of potentially negative commentaries on scheme proposals from the wide range of bodies that have to be consulted are likely to lead to a greater rejection of proposals and requests for changes to them. Moreover, in contexts where development sites require multiple planning applications before they gain planning permission, this exercise is repeated several times over and there is no guarantee of consistency in the comments received each time because different personnel are likely to be involved.

The enhanced information required often leaves individual DC officers paradoxically with less discretionary decision-making power than they had previously. It is now harder for them to question decisions on specific development schemes made by specialists in other parts of their local authority, such as transportation, housing or education, let alone more distant and aloof statutory bodies.

Evidence presented to a recent House of Commons Select Committee related to planning showed a series of senior planning representatives complaining of the growing ‘tick-box’ nature of planning (HoC, 2008, paras 21-25). They claim that reforms to planning, particularly the development of the Local Development Framework and the introduction of target regimes, have added greatly to information gathering and processing requirements at the expense of more positive, interactive planning. So, according to them, reforms to planning have greatly increased the burdens on planning departments.

The incentive structure with DC can also add to delay. Requests for changes to developments or for additional pieces of analysis as part of submissions raise the costs incurred by LPAs only marginally but increase them significantly for developers. The incentive for planning authorities to avoid difficult and potentially costly decisions simply by passing the costs onto applicants in the form of rejecting applications has been ignored within the emphasis that recent policy has put on planning incentives. Unless the authority is extremely keen on making a development happen, the incentive is high to reject if there are problems rather than use the powers granted by discretion and flexibility to force through a decision positive to development.

The knock-on effect in terms of the extra costs faced by developers of growing uncertainty and delay can be substantial. Generally, developers complain of the greatly increased paperwork, higher transactions costs and additional uncertainty (OFT, 2008). Although there is little systematic evidence on the resultant costs, some information points to substantial impacts. For example, in evidence cited in the recent OFT study one homebuilder incurred costs of over £220,000 during the five years from identifying a 50 dwelling site to construction beginning (OFT, 2008, para 5.16).

Information derived from a survey of housebuilders undertaken as part of the research reported here also highlights heightened transactions costs and impact fee costs. Comparative data are shown in Table 2 for two similar large (>1,500 dwellings) green field sites in Southern England, one purchased in 1998 and the other in 2005 by a large housebuilder. The firm's representative argued that the growing costs and delay associated with development control and the rise in regulatory requirements were such that they had actually lowered the real price that landowners receive for selling land to builders over the past decade. Although there was a 7.5 year gap between when the two sites shown in Table 2 were bought by the firm all of the apparent uplift in land prices had been swallowed up by planning requirements and the costs imposed by planning delay, leaving the two landowners with virtually the same payment per acre in nominal terms.

The argument that the costs of extra delay are born by lower land prices and, so, have little impact on anything but land values is often made. But many of the costs of planning delay relate to actual resource costs rather than solely financial transfers between parties. In

Table 2: Planning requirements and land prices: Two large sites compared

	Site A	Site B
Date acquired	Jan 1998	Aug 2005
Net to gross development area planning stipulation	53%	33%
Affordable housing requirement	15%	20%
Serviced land value per acre	£800K	£1.65m
Price paid to landowner per acre (pre Capital Gains Tax)	£250K	£240K

Source: Interview survey

addition, many potential sites for housing development may be rendered unprofitable by higher costs and greater risks, even in areas where there is a high **average** uplift in land values when sites are converted to residential. These potential profitability declines affect both builders and landowners. As a result, the incentives in some parts of the country for landowners to offer land for sale are diminishing, despite the rapid rise in land values up to 2007 and further expected growth once the current downturn passes.

Planner and developer views on planning delay

This section reports research that sought to explore perceptions of why planning delays arise and what has been the role and impact of performance-related reform. It summarises the views of around 30 key participants in the development process; arising from discussions with planning officers and developers active in southern England, plus the response to a questionnaire survey of housebuilders.

The analysis is divided into three parts. First, perceptions of delay in development control are explored. Second, views are ascertained on the degree to which the plan-led approach had increased certainty within the system. Finally, perceptions of the impact of performance targets are investigated.

Delays in development control

There was general dissatisfaction from housebuilders with the DC process in terms of the time taken to secure planning permission. When asked to score on a scale of 1 to 10 their view on the time taken to obtain planning permission, with 10 being acceptable and 1 being too slow, the average response across housebuilders was a low 3.4.

When asked to estimate typical times to obtain planning permission from initial application to final permission the average time for sites of fewer than 25 houses was 5.4 months, for sites of between 50 and 100 houses 6.9 months and for sites of more than 100 houses 8.5

months. These figures are somewhat less than the 11 months discovered in the detailed investigation of site time in DC reported earlier. However, according to evidence from the Home Builders Federation the average time between submission of an application and commencement of development for major proposals in 2006 was 15.5 months.⁷

Differences between published performance data on the determination of applications and perceptions and experiences of time taken were largely explained by developer respondents either by the nature of the site or by the characteristics of the local authority. There was a strong feeling that some sites are 'preferred' to others: 69% of respondents thought that sites were treated differently, while 63% thought that some applicants received preferential treatment. The interviews explored this issue in more depth and registered social landlords and schemes with 'known' architects were felt to obtain preferential treatment.

The local authority respondents backed up the above experiences and perceptions. Some authorities regarded proposals that are not plan allocations as 'hostile' or 'politically unwelcome' even though such schemes might be acceptable in policy terms. The feeling was that such schemes could be resource intensive and time consuming. In the view of one local authority, plan-led proposals allow local communities and politicians to 'come to terms' with development in particular locations. The implication is that planned sites are viewed as legitimate and favoured over windfall or unplanned sites.

There were suggestions of a two-tier perception by planners of 'preferred' and 'not-preferred' sites. The former were applications that conform to local policies from applicants that were prepared to 'toe the line' and the latter were the 'non-conforming' ones:

"Actually, getting planning permission is really easy. You just apply for something that is in line with local policies and follow the guidance we give you about how to design layout and so on" (Local Authority Chief Planner).

As another local authority put it:

"Refusals are made because developers have not done the work to demonstrate that their development will not cause harm" (Local Authority Senior Planner).

The view is strongly that developers have to prove their proposals meet local concerns rather than there being a presumption in favour of development. Yet, countering that, there is evidence that some local authorities and applicants, or their agents, have come to

⁷ <http://www.planningportal.gov.uk/england/professionals/en/1115315772911.html>

arrangements to deal with applications in ways that minimise delays and streamline processes; not simply through planning performance agreements but also tacitly as well. Unfortunately, it seems that such practices are neither widespread nor beneficial enough to alter developer views on planning delay.

There was a general attitude among the local authorities that they were not responsible for delays:

“Delay occurs because developers want delay. They can modify the scheme or have an answer. We are only delaying it in the sense that the scheme wasn’t the best scheme for the site” (Local Authority Chief Planner).

However, this could be interpreted as implying that those proposing schemes were left with little choice but to agree to the requirements of a local authority.

This evidence suggests what to many may seem an obvious fact: planners and developers cannot agree on the causes of delay but rather blame each other for them.

Uncertainty in development control

There was significant evidence from the interviews and housebuilder survey to back up the point that the DC process lacked certainty. Asked if they could estimate the time taken to secure planning permission on a site in advance, 71% of housebuilders felt that both the process and outcome were uncertain. None felt that they could typically estimate the time taken. Whilst 25% felt that the uncertainty was related to different site characteristics, there was also a strong feeling that the local authority itself was responsible.

A related issue concerned pre-application discussions. All the housebuilders surveyed undertook pre-applications discussions and 75% felt they were useful. However, nearly three quarters of them thought that they took too long and did not fully resolve issues. In the interviews, pre-application discussions were consistently raised in relation to uncertainty. Whilst valued in principle, housebuilders felt that they were not binding upon the authority; did not involve elected members, who could introduce new issues at a later stage; and did not usually involve other bodies, such as the Highways or Environment Agencies. Significantly, only half of housebuilders felt that pre-application discussions decreased the number of applications necessary to secure planning permission.

Local authority interviewees took a more positive view of pre-application discussions, highlighting their value as they allowed time to negotiate changes in order to make

proposals acceptable before submission. Meeting performance targets was more likely if issues were resolved before a formal planning application had been submitted. Unitary authorities felt they were better placed to coordinate responses at the local level than two tier authorities (though some builder interviewees were less convinced of the benefit of them.)

Whilst local authorities and central government see pre-application discussions as providing greater certainty, housebuilders tend to agree with this only to a point and highlight the lack of binding agreements that result.

The impact of performance targets

There was general agreement that measured development control performance has improved, though there is a strong feeling amongst housebuilders that such increases in performance have been achieved at a cost. 82% of them felt that performance targets had led to increases in rejections and this perception is confirmed by government statistics: approval rates for all applications fell from 88% in 1998/99 to just over 82% in 2007/08. The same proportion of housebuilders felt that requests to withdraw applications had also increased and, again, there is confirmation of this from the government with withdrawals increasing from just over 4% in 1997/98 to around 6.5% in 2006/07.⁸ There was a strong feeling amongst housebuilders that these consequences arose directly from the introduction of performance targets.

Local authorities were well aware of the perverse impacts of performance targets and also largely considered that they need reform. Many would not accept proposals until they were certain that they could be dealt with and determined with target times. The shift to a different approach from 2008/09 that rewards housebuilding as an output rather than DC as a process was felt to be a move in the right direction though this approach had its own problems as well.

The recent OFT housebuilding study also provided useful survey evidence. It found that 80% of the 17 survey respondents amongst the top 25 firms felt that planning delays acted as a barrier to expansion. Moreover, less than one third of homebuilders thought recent Government initiatives were helpful in improving the efficiency or effectiveness of DC (OFT, 2008, Annex D).

⁸ <http://www.planningportal.gov.uk/england/professionals/en/1115315772911.html>

Conclusions

The British system of development control is time-consuming and uncertain in outcome. Moreover, it is becoming increasingly overloaded as it has gradually switched away from being centred on a traditional 'is it an appropriate land-use?' type approach to one based on multi-faceted inspections of projects and negotiations over the distribution of the gains arising from them.

A variety of reasons have been suggested here for why overload is occurring. Four seem to be especially significant. First, there is an institutional bias in the pattern of reform towards piecemeal changes, with targets, monitoring and incentives bolted onto an essentially unchanged planning framework which separates 'plan' from discretionary 'permission'. Second, changes in the new housing market – many of them planning-encouraged – have increased DC workloads. Third, the tasks undertaken in DC have increased substantially. Fourth, incentive structures related to targets do not seem in practice to minimise the overall time or costs of DC but rather encourage greater burdens to be imposed on applicants.

Further planning reforms may bring some benefits. For example, it should be relatively easy to switch emphasis from monitoring individual applications for planning permission to evaluating the progression of sites through DC. Similarly, the proposed shift to redirect central government grant incentives away from time targets for planning permissions to a scheme based on housing output achieved in localities seems sensible. Government concerns to push land-use planning more towards the centre of local government activities, as stated in the recent Planning White Paper (CLG ,2007), may also provide benefits, if successful.

Although a housing market downturn is currently underway, the long-run trend of housing demand is high. Government has set a target of 240,000 homes a year and the official body set up to encourage extra housing supply, the National Housing and Planning Advisory Unit, has argued for more (NHPAU, 2008). The government target implies a housebuilding rate 50% higher than that achieved in England at the height of the last boom. However, in view of some of the fundamental problems with DC surveyed here, considerable changes in DC practices are likely to be necessary to achieve rapid supply responses in the next upturn let alone such ambitious goals.

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