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Assessing the Implications of Planning Policy Proposals for Low Impact Developments in Rural England & Wales



Credit: Economads

Abstract

Rural Low Impact Developments (LIDs) provide exceptional examples of sustainability (CCW 2002). Despite the fact that the planning system has a stated responsibility to deliver sustainable development, obtaining planning permission for LIDs has historically been difficult. Nevertheless, many LIDs have successfully exploited the inherent flexibility of the planning system to ultimately obtain permission.

The coalition government is now planning a “radical reboot” of the planning system in England to make it more streamlined, democratic and less bureaucratic (Conservatives, 2009). The government also wants to devolve more control over planning decisions to the local and neighbourhood levels. Meanwhile, the Welsh Assembly Government has issued a new national LID policy that describes how LIDs should be assessed in order to determine planning applications.

This study explores how the proposed changes might affect the prospects for future LIDs to obtain permission. It considers the views of professional bodies, planning consultants and expert witnesses in LID planning cases and summarises numerous previous LID planning cases. The study finds that many of the policies and procedures that have enabled LIDs to obtain planning permission in the past are under review and may be revoked or abolished in future.

The thesis concludes that it is likely to become much more difficult to obtain planning permission for LIDs in rural England. The study recommends that advocates of LIDs at a national level should make representations to parliamentary & governmental consultations, while those wishing to see LIDs – or other sustainable development initiatives – in their local area should put significant effort into local- and neighbourhood-level planning policy consultations.

Finally the study recommends that emergent LIDs should consider investing considerable energy and resources into engaging with their local community as part of their strategy.

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Conflict of Interest

The author is employed by the Permaculture Association (Britain).

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List of Abbreviations

AONB – Area of Outstanding Natural Beauty

CCW – Countryside Council for Wales

CLU – Certificate of Lawful Use

CPRE – Campaign to Protect Rural England (Formerly Council for the Preservation of Rural England)

DCLG – Department for Communities & Local Government

DEFRA – Department for Environment, Food and Rural Affairs

gHa – Global Hectares (Measure of land to provide one's resource & waste assimilation needs)

LDF – Local Development Framework

LID – Low Impact Development

LPA – Local Planning Authority

NAW – National Assembly of Wales

PCNP – Pembrokeshire Coast National Park

PPG – Planning Policy Guidance Note (National planning guidance)

PPS – Planning Policy Statement – Replacement for PPG (National planning guidance)

RIBA – Royal Institute of British Architects

RTPI – Royal Town Planning Institute

RSS – Regional Spatial Strategy (Regional planning guidance, now repealed)

SPD – Supplementary Planning Document (Local planning policies)

SSSI – Site of Special Scientific Interest

TCPA – Town and Country Planning Association

WAG – Welsh Assembly Government

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Chapter 1 – Introduction

1.1 Research Problem

During the last 20 years, Low Impact Developments (LIDs) have arisen in rural England and Wales as a response to global issues such as climate change and resource depletion. They have repeatedly and often deliberately challenged a planning system that has lacked an understanding of their approach.

Many rural LIDs have made use of the flexibility and sophistication of the planning system to obtain planning permission and gone on to demonstrate impressive levels of sustainability (CCW 2002). Meanwhile, the planning system has gradually evolved and today several local planning authorities have guidelines to enable planners to assess LIDs in a more informed fashion and, as of July 2010, Wales has a national LID policy (WAG 2010).

However, in 2009, the Conservative Party proposed a “radical reboot” of the planning system in their “Open Source Planning” green paper (Conservatives 2009). The proposals aim to make the system in England more streamlined, democratic and less bureaucratic. At the time of writing the Localism Bill - which contains some of the proposals set out in Open Source Planning - is making its way through parliament.

It is unclear how the proposals might affect future LIDs’ planning applications. The proposals could set the planning system’s evolution back a number of years and remove the flexibility and sophistication that has thus far enabled LIDs to gain planning permission. Conversely, there is an opportunity to rewrite local plans and national planning guidance, and so an English LID policy similar to Wales’ could emerge.

1.2 Prior Studies

This is a rapidly evolving area. Consequently there is very little relevant & up-to-date literature addressing the topic.

Key stakeholder organisations such as the Royal Town Planning Institute, Royal Institute of British Architects and Town & Country Planning Association have submitted responses to the Conservative Party’s green paper (RTPI 2010, TCPA 2010a, RIBA 2010). These responses detail the areas of the proposals that were welcomed and those that cause concerns.

Chapter 7, a group that campaigns for “*access to land for all households... through environmentally sound planning*” (UN 1992) is arguably the authority on LIDs and planning in

the UK. The editorial team of their magazine & newsletter have produced numerous publications and appeared as expert witnesses at several LID planning case public inquiries. Indeed, the term *Low Impact Development* was coined by one of the team (Fairlie 1996). Chapter 7 has issued a briefing suggesting ways in which the proposals may affect LIDs (TLIO 2010).

1.3 Deficiencies in the Studies

The dearth of literature is in itself a deficiency. Moreover, all of the consultation responses by stakeholder organisations approach the topic from a broad perspective. None explicitly consider how the proposals might affect LIDs (RTPI 2010, TCPA 2010a, RIBA 2010).

The Chapter 7 briefing does examine the implications of the proposals for LIDs. While the briefing draws on Chapter 7's considerable experience in the area it provides the views of just two authors and is not a peer-reviewed, academic study. Also, it was prepared in response to the original green paper, prior to the publication of the Localism Bill, so it does not consider the implications of the bill.

There is, as yet, no quantitative study of how the proposals may affect LIDs' planning applications.

1.4 Importance of the Study for Interested Audiences

At the time of writing, the Public Bill Committee scrutinising the Localism Bill is inviting written evidence from interested parties (Parliament 2011). Meanwhile the Department for Communities and Local Government (DCLG) is consulting on other proposals from the green paper (DCLG 2010d).

It is regrettable that there is no empirical evidence to support submissions to either the Public Bill Committee or the DCLG consultation, as any claims made in such submissions may be substantiated by it.

Elsewhere, nascent LIDs who are forming their projects' strategy today would benefit from more information about how the proposals might impact them.

1.5 Purpose of the Study

This study seeks to support planning policy formation and LID strategy development by providing empirically driven feedback.

The study explores expert opinion on how the government proposals will affect LIDs and surveys previous LIDs' planning cases to understand the extent to which various aspects of the proposals might impact future LIDs' prospects.

Chapter 2: Low Impact Developments

2.1 Definition & Description

The term *Low Impact Development* was originally defined by Fairlie:

“A low impact development is one that, through its low negative environmental impact, either enhances or does not significantly diminish environmental quality.” (Fairlie, 1996)

This definition has since been revised by Chapter 7, the planning office of The Land Is Ours campaign group of which Fairlie is a key member:

“Development which by virtue of its minimal or benign effect upon the local and global environment may be acceptable in locations where more conventional development may not normally be permitted.” (Chapter 7, 2007)

Low Impact Development can also be seen as an ethically motivated, grass-roots movement of people seeking more environmentally benign ways to live.

In practice LIDs typically comprise a small number of dwellings that are constructed from local, sustainable materials in a way that has a low physical impact on the site (e.g. through lightweight – or non-existent – foundations). A significant proportion of occupants of many rural LIDs derive a large part of their income and/or subsistence requirements from land-based activities. See figure 2.1 for a map of selected LIDs in England and Wales.

2.2 Philosophical Basis

A common feature of LIDs is the use of ethics and design principles from the field of permaculture to inform the site design, implementation and management.

Permaculture is an integrative design discipline for creating sustainable human habitats. One of permaculture’s originators, Bill Mollison, describes it thus:

*“Permaculture (**permanent agriculture**) is the conscious design and maintenance of agriculturally productive ecosystems which have the diversity, stability, and resilience of natural ecosystems. It is the harmonious integration of landscape and people providing their food, energy, shelter, and other material and non-material needs in a sustainable way...”*

(Mollison 1988)

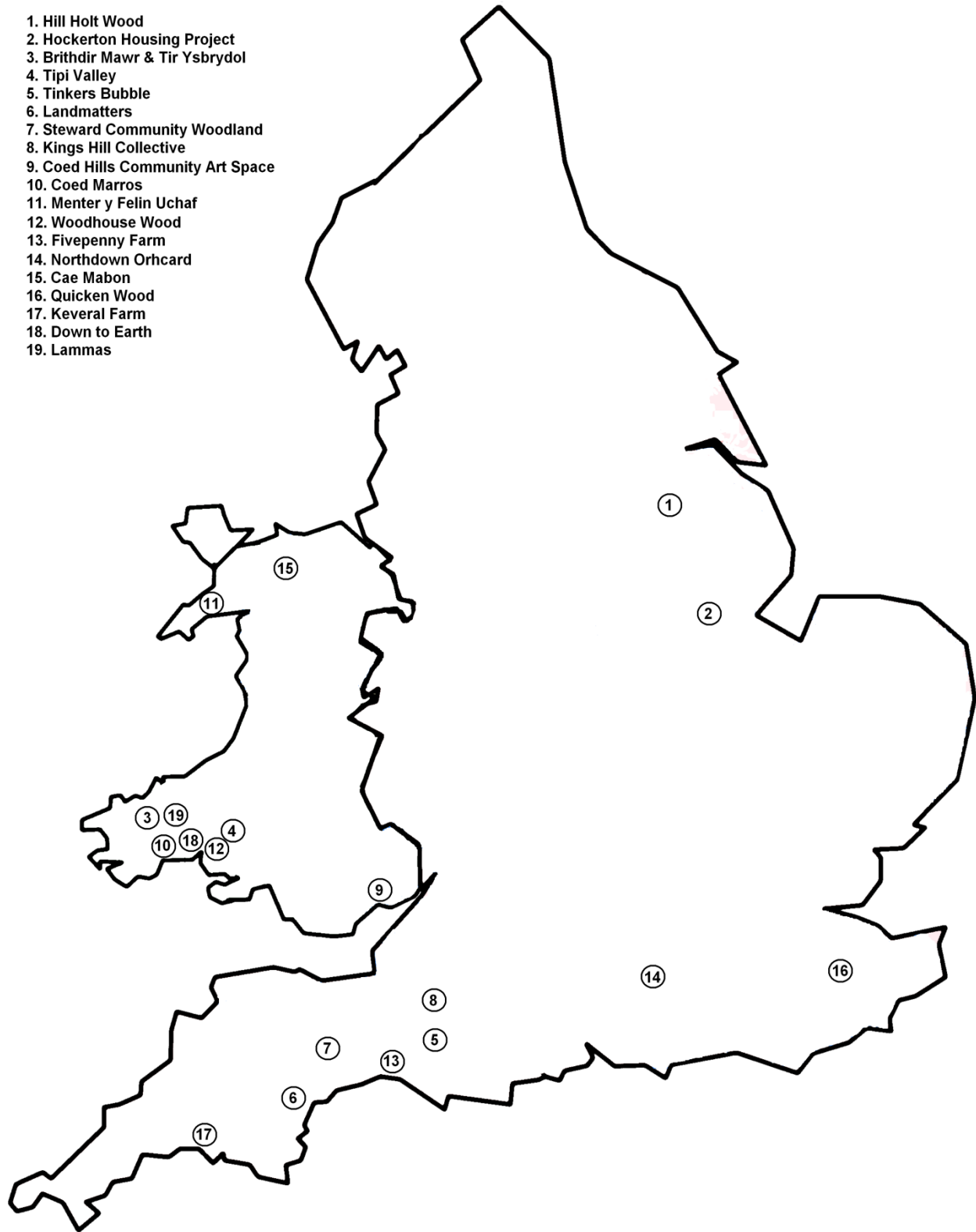


Figure 2.1: Map of selected LIDs in England and Wales (Adapted from Pickerill & Maxey, 2009).

Mollison goes on to explain that one of the central aims of permaculture is promoting biodiversity:

“Permaculture design is a system of assembling conceptual, material, and strategic components in a pattern which functions to benefit life in all its forms.”

(Mollison, 1988)

2.2.1 Ethics

Permaculture is unusual among design disciplines in that it has an explicitly stated ethical basis. These ethics were derived from a study of most major belief systems to identify common underlying ethics. They comprise:

- Earth care – mankind should endeavour to maintain (or rehabilitate) the entire earth system’s health.
- People care – a culture must provide for all of its people if it is to thrive in the long term.
- Limits to consumption – by only using the energy & raw materials that we need we can leave sufficient for other people and species.

2.2.2 Principles

Permaculture design uses various principles that are based on observations of how ecosystems operate. They provide a framework for thinking about a given design problem. They include:

- Work with nature, rather than against
- Make the smallest possible change for the greatest possible effect
- Every important function within the system should be supported by several elements
- Every element should perform several functions
- The yield of a system is theoretically unlimited (or only limited by the information & imagination of the designer)
- Everything “gardens”, or every element in a system modifies its environment in some way

(Mollison 1988)

The purpose of the principles is to enable the designer to develop systems that have the same features as natural systems: energy efficient cycling of nutrients & resources, inherent resilience, etc.

2.2.3 Design Framework

The third key element of permaculture is a design process and set of tools to enable the design to emerge and be easily maintained.

2.3 Evidence of Sustainability

A study commissioned by the Countryside Council for Wales conducted a detailed sustainability appraisal of 5 Welsh LIDs. (CCW 2002).

2.3.1 Economic Indicators

The Countryside Commission for Wales study concluded that:

- *“most cases were contributing to diversification and enhancement of the rural economy, usually through activities connected to agriculture and / or forestry*
- *contributions to the cash economy are usually very modest, as LID involves a significant degree of subsistence activity*
- *involvement in the local economy typically involves the sale of food and other produce and products from the holding, some educational activities, some provision of jobs for local people and some residents taking part-time local jobs*
- *many economic activities on LIDs maintain, enhance and diversify traditional rural skills*
- *unemployment levels are very low, as is the use of state support, although entitled”* (CCW 2002)

On Housing the report found that LIDs have the potential to provide affordable rural housing that *“has the potential to be far cheaper than any ‘conventional’ housing”* (CCW 2002 p75)

One example of an affordable low impact home is Simon Dale’s roundhouse in Wales. The building was constructed using locally sourced stone, palettes, logs, straw bales, a turf roof incorporating a plastic membrane and reclaimed window units. The materials cost £3,000 and labour was around 1,500 hours (Dale 2010). Assuming an hourly labour rate of £10, gives a total build cost of £18,000 compared with the average house price in Wales of £160,384 (BBC 2010).



Figure 2.2 Simon Dale's Roundhouse. Credit: Simon Dale



Figure 2.3 Simon Dale's Roundhouse – interior. Credit: Simon Dale

2.3.2 Social Indicators

With regard to social aspects of sustainability, the CCW report concluded that:

- *“LID residents, as a result of the very ‘local’ nature of their lives, usually form strong linkages with local services and facilities*
- *contrary to some opinion, relationships with local communities are usually good and sophisticated*
- *although incomers are a feature of LID, so are Welsh people, sometimes with local origins*
- *the proportion of LID residents speaking Welsh exceeds the national average, and there are many links to Welsh culture” (CCW 2002)*

It should be noted that this is a small sample. There are other cases where relationships with local communities are somewhat uneasy.

2.3.3 Environmental Indicators

In terms of environmental sustainability, the CCW report found that:

- *“habitat management and the support of biodiversity are key characteristics of many LIDs*
- *where a LID project is correctly conceived and implemented there can be significant local environmental benefits*
- *landscape impact of LID is usually very low, with the buildings blending into their surroundings*
- *LID can involve environmentally low impact buildings which tend to be innovative rather than traditional in design and materials” (CCW 2002)*

...and regarding resource use, that:

- *“pursuit of natural resource efficiencies is intrinsic to LID*
- *waste minimisation, recycling and pollution minimisation are common in LID*
- *LIDs frequently incorporate environmental education and the promotion of environmental good-practice*
- *it is a central feature of LID to make good use of food and other resources such as building materials from site*
- *use of renewable energy is common in LIDs as are low levels of energy use and high levels of energy efficiency*
- *LID often utilises sustainable water sources such springs and wells. Grey-water processing through reed beds is common” (CCW 2002)*

Furthermore, independent ecological and carbon footprint analyses for various LIDs in England & Wales have been conducted by 4th World Ecological Design, an engineering and design consultancy that specialise in ecological footprint analysis.

The analyses used desk top studies, surveys, and interviews with representative samples of LIDs' occupants who were also asked to complete diaries of activities, consumption etc. Data was then collated and analysed using the Personal StepwiseTM software tool to arrive at the final figures.

The analyses relied on the responses of the occupants themselves, who have an incentive to prove their low impact (in some cases, temporary planning permission had been granted on condition that the sustainability of the development could be demonstrated, prior to permanent permission being granted), so a degree of caution is necessary.

Nevertheless, the results show that the LID occupants' ecological and carbon footprints are typically between a third and a half that of the UK average (see table 2.1 & 2.2).

LID	Ecological footprint (gHa)	% of UK average
Landmatters	2.47	46%
Steward Community Woodland	2.06	39%
Pentiddy	2.32	44%
Trevalon	2.53	47%

Table 2.4: Average ecological footprints of selected LIDs' occupants. Source: 4th World Ecological Design

LID	Carbon Footprint (Tonnes)	% of UK Average
Landmatters	3.6	33%
Steward Community Woodland	3.75	34%
Pentiddy	4	37%
Trevalon	4.6	42%

Table 2.5: Average carbon footprints of selected LIDs' occupants. Source: 4th World Ecological Design

Chapter 3 – The Planning System

3.1 History of the planning system

The rapid growth of industrial centres during the Victorian era created squalid living conditions for many workers, which in turn led to outbreaks of diseases such as cholera, typhus and dysentery. This prompted public health reform including provision of clean water, refuse removal and controls on building practices by local councils to ensure a minimum level of sanitation. In the early 20th century, various acts of parliament placed further controls on house building and led to slum clearances. (CPRE 2010a)

During the inter-war period, over 4 million new homes were built, many in rural areas around towns and cities. (CPRE 2010b) The perceived threat of urban sprawl led to the formation of the Council for the Protection of Rural England (CPRE) and ultimately the planning system to provide a framework to protect the countryside. (Murdoch & Lowe 2003)

The *Town and Country Planning Act 1932* brought about national planning controls over rural development and the *Town and Country Planning Act 1947* provided a framework for rebuilding Britain's war-damaged cities. The latter act forms the basis of the current planning system. It gave responsibility for development control to local authorities, who now had to produce a local plan of policies, and established the concept of *permitted development* for certain types of building and land use (CPRE 2010b).

The planning system has continued to evolve, with the introduction of green belts, the introduction and withdrawal of county structure plans & regional planning guidance and the division of responsibility for plan making (setting out planning strategy in a given area) and development control (making decisions on specific planning applications) (CPRE 2010b). Since Britain signed up to Agenda 21, sustainable development has formed an increasingly important focus for planning policy.

3.2 Overview of the Planning System

Today the planning system continues to change. National legislation, procedures and terms are often updated on a piecemeal basis, and changes take time to propagate to the local level. Consequently new terms coexist with older ones. The following is believed to be correct at the time of writing.

3.2.1 Plan Making

3.2.1.1 National Policies

In England, national planning policy priorities are set out in a group of Planning Policy Statements, which replace older Planning Policy Guidance documents. Each one covers a specific theme.

In Wales national planning priorities are set out in one main document, “Planning Policy Wales”, which is supplemented by a set of themed documents called Technical Advice Notes. See Appendix A for lists of planning documents for England & Wales.

3.2.1.2 Local Plans

National priorities form the foundation of local plans that are prepared by Local Planning Authorities (LPAs) – part of the local council or national park authority - in consultation with local communities. These local plans are currently called *Local Development Frameworks* in England and *Local Development Plans* in Wales (formerly Unitary Development Plans)¹.

Local plans should attempt to reconcile the national policy goals with local conditions such as SSSIs, AONBs, conservation areas etc. They define the amount and type of development that will be considered appropriate for their area. See Appendix A.

Once a Local Planning Authority has prepared a local plan, the Planning Inspectorate reviews it to ensure that it meets the national objectives sufficiently. If the Inspectorate is unhappy with elements of the plan, they have the power to rewrite sections of it. This is intended to ensure that local plans do indeed reflect national objectives.

3.2.1.3 Regional Spatial Strategies

Regional Spatial Strategies set various development targets for regions such as numbers of houses that should be built in a given period, as well as policies on flood defences, coastal erosion management and sustainable transport infrastructure. Regional Spatial Strategies were revoked by the coalition government in July 2010.

3.2.2. Development Control

Development control primarily involves assessing individual planning applications against the local plan and either granting or refusing permission. It also includes ‘discretionary services’

¹ The term “local plan” will be used to refer to local development frameworks, local development plans & unitary development plans.

including the provision of pre-application advice to developers and enforcement against breaches of planning legislation (see 3.2.5, below). (DCLG 2010a)

3.2.3. Planning Application Process

The planning application process is broadly similar in England & Wales and is illustrated in figure 3.1. Planning applications are submitted to the planning office of the Local Planning Authority. A planning officer will assess the application against the local plan and, in trivial or straightforward cases, grant or refuse permission under what is termed a *delegated decision*.

Large or complex cases are referred to the local planning committee along with the planning officer's recommendation on whether to grant or refuse planning consent. In controversial cases, consent may be granted with conditions under a *planning agreement* or *section 106 planning obligation*. Such agreements may include a *community infrastructure levy*, whereby negative impacts of a development may be offset by a financial contribution towards local infrastructure by the developer.

Sometimes temporary planning consent may be granted (typically for 3 years) to allow an applicant to prove that they can satisfy the section 106 obligation before permanent permission is granted. (Chapter 7, 2009).

3.2.4 Planning Appeals

Unsuccessful applicants may appeal against a decision to the secretary of state (at present the head of the Department for Communities and Local Government) or the Welsh Assembly Government. Appeals are usually processed by the Planning Inspectorate (in both England and Wales), but may occasionally be *called in* by the secretary of State or Welsh Assembly Government who will consider a report prepared by the inspectorate. (Planning Inspectorate, 2011)

At present, third party appeals cannot be made by objectors to a development for which consent has been granted. (Chapter 7, 2009)

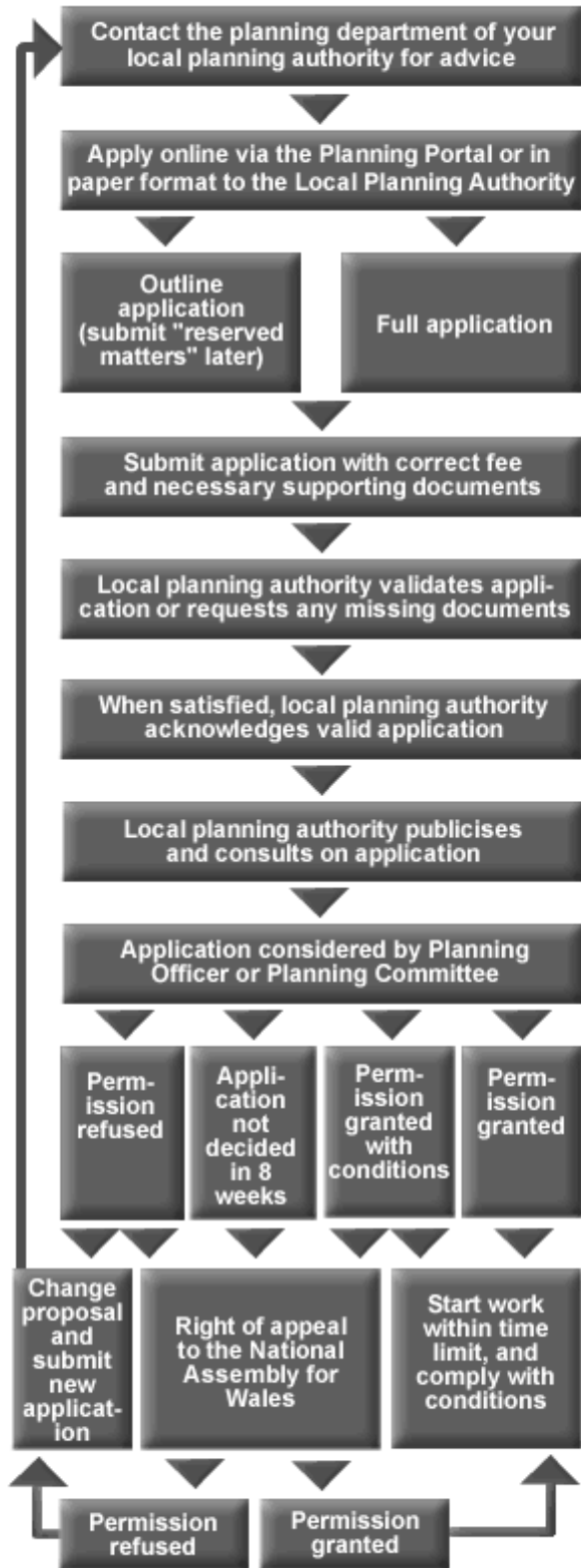


Figure 3.1: The Planning Application Process. Source: Planning Portal (DCLG 2010e)

3.2.5 Enforcement

A *breach of planning control* can occur when development has happened without planning permission or a section 106 condition has not been complied with. In such instances the LPA may issue an *enforcement notice* calling on the developer to remedy the situation. Enforcement notices usually give 6 months to comply and take effect 28 days from issuance. In the meantime, the developer may submit a retrospective planning application, which will be treated as a normal application. (Chapter 7, 2009)

There is a deadline by which the LPA must issue an enforcement notice against a development. In the case of a single dwelling it must be issued within 4 years of the building being built. In the case of a change of use of the land, it is 10 years from when the change of use first occurred. After this period, the developer may apply for a *Certificate of Lawful Use (CLU)*. Unsuccessful applications for certificates of lawful use can also be appealed against. (Chapter 7, 2009)

In certain circumstances, the LPA may serve a *stop notice*, which prohibits any further operations on the site. Failure to comply with an enforcement or stop notice is a criminal offence that can carry a custodial sentence and result in the demolition of the development at the developer's cost. (Chapter 7, 2009)

3.2.6 Enforcement Appeals

Developers subject to enforcement action may lodge a *section 174 appeal* within 28 days using the same process as the planning appeal. Once the appeal is lodged, the enforcement notice is suspended until the outcome of the appeal has been determined. (Chapter 7, 2009)

3.2.7 Court Proceedings

If a developer's planning or enforcement appeal (or certificate of lawful use application) fails, they may still be able to pursue the matter through the courts. Likewise, a LPA can pursue a case if they strongly disagree with a decision by the Planning Inspectorate. The High Court is the first option, followed by the Court of Appeal, the House of Lords and finally the European Court. The courts will only make a judgement on whether a decision has been arrived at by lawful means or not. They will not consider the merits of the development itself (Chapter 7, 2009).

Chapter 4 – Rural LIDs & the Planning System

4.1 LIDs and the Prevailing Orthodoxy

For historic reasons noted in chapter 3, one of the primary functions of the planning system is the protection of the countryside from development. Pickerill & Maxey note that:

“A central plank of the planning system since 1945 has been the presumption against development in ‘the open countryside’. New housing and other developments should, according to the post-war paradigm, be concentrated in existing centres, be they cities towns or villages...” (Pickerill & Maxey 2009)

Consequently, planning orthodoxy has tended towards the centrist view of sustainable development, or the Compact Cities Model (Hopkins 1996). This view holds that by clustering dwellings, workplaces and other services together into densely occupied settlements, energy & resource efficiencies can be achieved in terms of transport, space heating, infrastructure etc.

This view is reflected in Planning Policy Statement 1:

“The prudent use of resources means ensuring that we use them wisely and efficiently, in a way that respects the needs of future generations... The broad aim should be to ensure that outputs are maximised whilst resources used are minimised (for example, by building housing at higher densities on previously developed land, rather than at lower densities on greenfield sites).” (DCLG 2005)

However, LIDs present compelling examples of a sustainable *decentrist* settlement pattern. Their lower ecological footprints are typically achieved by occupying the land in a more dispersed fashion where people have access to more of their subsistence needs. In this pattern, using permaculture design principles they can design cyclic flows of energy and resources into their homes and settlements, achieving greater efficiencies than typical urban-dwellers and making more modest demands of the industrial infrastructure and economy. Furthermore, as Pickerill & Maxey note, this can also benefit biodiversity:

“LID presents a new planning paradigm which places humans as part of the natural world, not anathema to it. LID demonstrates that humans can create sustainable homes and livelihoods and increase biodiversity” (Pickerill & Maxey 2009)

However, planning policy has historically had a very limited facility to accommodate LIDs, perhaps in part because they are based on such different underlying assumptions to prevailing opinion, and in part because they are a relatively new, and uncommon phenomenon.

Consequently, many LIDs have struggled to obtain planning permission, and most have had to exploit obscure clauses of planning policy or undergo protracted application and appeal procedures, and occasionally court battles, in order to do so.

4.2 Suggested LID Planning Policies

Various proposals have been advanced in response to this lack of a permaculture or LID planning policy. Wrench proposes a new land use class, *Permaculture Land*:

“This is land used for permaculture - sustainable self-reliant agriculture and horticulture in which work, house building, leisure, growing food, rearing animals, education, renewable energy, recycling and nature conservation are integrated in an infinite number of ways” (Wrench 1994)

In *Low Impact Development: Planning and People in a Sustainable Countryside*, Fairlie suggests that national, regional and local plans should include provision for LIDs and sets out nine criteria by which planners could assess whether a development is low impact:

“These are that the development:

- *Is temporary;*
- *Is small scale;*
- *Is unobtrusive;*
- *Is made from predominantly local materials;*
- *Protects wildlife and enhances biodiversity;*
- *Consumes a low level of non-renewable resources;*
- *Generates little traffic;*
- *Is used for a low impact or sustainable purpose;*
- *Is linked to a recognized positive environmental benefit”*

(Fairlie 1996)

Fairlie’s work was later developed by The Rural Planning Group of Land Is Ours to give 15 criteria for sustainable developments in the countryside (TLIO 1999). See appendix B.

4.3 Planning Policies Relevant to Rural LIDs

4.3.1 England

4.3.1.1 National Policy

In England, there is currently no national LID policy. The key policy instruments relating to LIDs in rural areas are: *PPS1 Delivering Sustainable Development* and *PPS7: Sustainable Development in Rural Areas*.

PPS1 sets out principles that should be taken into account when Local Planning Authorities are preparing local plans, such as:

“Local planning authorities should ensure that development plans promote outcomes in which environmental, economic and social objectives are achieved together over time...

Local planning authorities should ensure that development plans contribute to global sustainability by addressing the causes and potential impacts of climate change – through policies which reduce energy use, reduce emissions (for example, by encouraging patterns of development which reduce the need to travel by private car, or reduce the impact of moving freight), promote the development of renewable energy resources, and take climate change impacts into account in the location and design of development.” (DCLG 2005b)

Superficially PPS1 would seem to advocate the creation of a supportive local policy environment for LIDs. However, the presumption against development in the open countryside and underlying assumptions about what constitutes a sustainable pattern of development described above tend to leave rural LIDs outside of local development frameworks.

A rural LID could meet all of the above objectives but struggle to obtain planning permission because the local planners would need very strong evidence to justify siting the development in the open countryside, rather than in an existing settlement.

PPS7 states that development in the open countryside must be strictly controlled, and this is usually rigorously enforced. However, Annex A of PPS7 sets out a narrow range of criteria that specify when new dwellings may be permitted in the open countryside:

“One of the few circumstances in which isolated residential development may be justified is when accommodation is required to enable agricultural, forestry and certain other full-time workers to live at, or in the immediate vicinity of, their place of work.” (DCLG 2006)

Annex A goes on to state that, in order to justify such a dwelling, the worker needs to demonstrate a real need to be on site round the clock, for example to attend to emergencies relating to livestock. This is referred to as a *functional test*. Furthermore, they need to prove that they are employed by an enterprise that is financially viable – known as the *financial test*.

The aim of this policy is to protect against abuse by speculative developers, and planners will often employ expert testimony of agricultural or forestry consultants to assess whether applications meet functional and financial tests or not.

LID applications and appeals sometimes struggle at this point because few consultants have an in-depth understanding of permaculture, so make assessments about functional need for occupation based on orthodox agricultural models, in which the home and areas of food production are much less integrated.

A new version of *PPS4: Planning for Sustainable Economic Growth* was published in 2009. It supersedes many sections of PPS7, which at the time of writing has not been updated. PPS7 should therefore be read in conjunction with PPS4 to understand which sections still apply. Annex A of PPS7 remains intact at present. (DCLG 2009)

4.3.1.2 Local Policies

There are at least 5 LPAs in England with local policies that related to LID. Lewinsohn notes that:

“Boyle (2007) developed a matrix by which to judge the local LID policies against LID criteria and relevant government policies regarding sustainable development. The following scores were given to the LID policies...

Milton Keynes: 8/18

South Somerset: 3/18

Torrington: 2/18”

(Lewinsohn 2008)

Chapter 7 discuss local low impact policies and broadly agree with Boyle’s findings:

“some of these (eg South Somerset, Milton Keynes) are pretty useless because they have been watered down by Government interference. While others have been in local authorities where nobody in need has been able to afford land [Oxford]. Babergh District Council in Suffolk has a quite sensible policy which has been successfully used” (Chapter 7 2009)

4.3.2 Wales

Wales has a more favourable policy environment for LIDs.

4.3.2.2 National Policy

As of July 2010 “TAN6 Planning for Sustainable Rural Communities” contains a policy on LIDs, which it terms “One Planet Developments”. It sets out a range of criteria for assessing the projects’ sustainability similar to those recommended by the Rural Planning Group (Appendix B), and ultimately Fairlie, above. Briefly they are that the development should:

- initially achieve an ecological footprint of 2.4 Gha and demonstrate the potential to move towards 1.88 Gha;
- be zero carbon in construction & use;
- be owned co-operatively;
- provide for the minimum needs of the inhabitants in terms of income, food, energy and waste assimilation;
- have a management plan that includes:
 - business plan
 - ecological footprint analysis
 - carbon analysis
 - biodiversity & landscape assessment
 - community impact assessment
 - transport assessment & travel plan(WAG 2010b)

The targets for one planet developments are ambitious: half of the LIDs assessed by 4th World Ecological Design in chapter 3 achieve ecological footprints of less than 2.4 Gha. None achieve 1.88 Gha. None are zero carbon in use.

Perhaps of equal interest to low impact developers in Wales is that the conditions for isolated agricultural dwellings (i.e. the equivalent of PPS7 Annex A in England) set out in TAN6 have been relaxed to allow a broader range of rural enterprises, and occupants to qualify:

“The occupancy of the dwelling shall be restricted to those:

- a. solely or mainly working or last working on a rural enterprise in the locality where there is/was a defined functional need; or if it can be demonstrated that there are no such eligible occupiers, to those;*
- b. who would be eligible for consideration for affordable housing under the local authority’s housing policies: or if it can be demonstrated that there are no persons eligible for occupation under either (a) and (b);*

c. widows, widowers or civil partners of the above and any resident dependants.”

(WAG 2010b)

4.3.2.1 Local policies

TAN6 builds on the earlier Joint Unitary Development Plan for Pembrokeshire, which contained ground-breaking supplementary planning guidance, *Policy 52 ‘Low Impact Development Making a Positive Contribution’*. The plan, which scored 17/18 according to Boyle’s matrix, was developed partly in response to the number of Low Impact Developments that were occurring in West Wales.

The development of the policy was informed by the Countryside Council for Wales report (CCW 2002) and a subsequent report prepared by Baker Associates (CCW 2004), which looked into how the policy might be designed. Policy 52 includes 8 criteria by which a proposed LID might be judged:

1. *“The proposal will make a positive environmental, social and/or economic contribution with public benefit; and*
2. *All activities and structures on site have low impact in terms of the environment and use of resources; and*
3. *Opportunities to reuse buildings which are available in the proposal’s area of operation have been investigated and shown to be impracticable or are incorporated ; and*
4. *The development is well integrated into the landscape and does not have adverse visual effects; and*
5. *The proposal requires a countryside location and is tied directly to the land on which it is located, and involves agriculture, forestry or horticulture; and*
6. *The proposal will provide sufficient livelihood for and substantially meet the needs of residents on the site; and*
7. *The number of adult residents should be directly related to the functional requirements of the enterprise; and*
8. *In the event of the development involving members of more than one family, the proposal will be managed and controlled by a trust, cooperative or other similar mechanism in which the occupiers have an interest.”* (PCC & PCNPA 2006)

Since the adoption of the Pembrokeshire plan, Policy 52 has been tested by Brithdir Mawr, Coed Twannel and Lammas LIDs. All have successfully obtained planning permission but none of the cases has been straightforward and all have caused considerable stress for the applicants. (Wimbush 2009, Wrench 2011)

4.4 Planning Procedures Relevant to LIDs

4.4.1 Retrospective Planning Permission

While Chapter 7 do not openly advocate developing first and seeking permission later, they do highlight the fact that in many cases low impact developers who do so tend to find themselves in a stronger position *vis-à-vis* the planning system as a result. (Chapter 7 2009)

This is due to the fact that it is not illegal to develop without permission and planners are less eager to enforce against someone for whom eviction will result in homelessness. Indeed, article 8 of the human rights act states that “*authorities should not, without good reason interfere with a citizen’s rights for respect for his home*”. (Chapter 7, 2009)

4.4.2 Temporary Planning Permission

Low Impact Developers who move on to land to establish a new rural enterprise typically need time to demonstrate it’s viability (i.e. meet the financial test set out in Annex A of PPS7). In such cases it may be easier to obtain temporary planning permission – typically for 3 years but occasionally more – in which to build up their business. After this, assuming the functional test is also met, it may be easier to obtain permanent permission.

4.4.3 Certificate of Lawful Use

Section 3.2.5, above noted that a certificate of lawful use may be obtained where development has taken place and has not been enforced against within a given time frame. A small number of LIDs have developed along these lines. This typically entails erecting temporary structures and/or building low impact dwellings in secluded locations, often in woodland where it is visually screened from neighbours, passersby etc. After 4, or 10 years depending on the nature of the development, the developers can apply for a certificate of lawful use.

4.4.4 Planning & Enforcement Appeals

As most LIDs don’t sit easily within local plans, development control officers often recommend LID applications for refusal (TLIO 2009). In such cases, and where enforcement proceedings are underway, low impact developers typically submit an appeal.

It is common for the planning inspectors to overturn these decisions at appeal. (TLIO 2009). Such appeals often rest on *material considerations*. Chapter 7 define Material considerations as:

“Any factor that is deemed relevant to the planning issues relevant to any application. When making a decision a local authority or planning inspector is supposed to weigh up the material considerations for and against the proposal...” (chapter 7 2009)

It seems that local development control officers and planning inspectors tend to assess material considerations differently. Inspectors, on the whole, tend to take a wider view and place more emphasis on national planning policy statements such as PPS1. Consequently, outstanding examples of sustainable development tend to find favour with inspectors more easily than with local development control officers (TLIO 2009).

Chapter 5 – Proposed Changes to the Planning System

5.1 Overview

The Conservative Party set out an agenda for radical change to the planning system in England in the green paper “Open Source Planning” prior to the general election. The Coalition Government has already enacted one proposal (see 7.3) and included several of the other proposals in the localism bill (see 7.4, below), which is going through parliament at the time of writing. Alongside the localism bill, the Government is consulting on rewriting the national planning policy framework for England.

5.2 Key Changes Proposed by Open Source Planning

The Open Source Planning green paper proposes a raft of changes to the planning system. With regard to local housing, infrastructure and environment, the proposals include:

1. Abolishing regional spatial strategies;
2. Amending the Land Use Classes order to remove some restrictions;
3. Reducing the powers of the planning inspectorate (to re-write local plans and determine appeals);
4. Adding the right for 3rd parties to appeal planning decisions;
5. Limiting grounds for appeals to contravention of procedure or local plan (i.e. removing the use of material considerations);
6. Encouraging neighbourhood level development plans;
7. Mandating the use of collaborative democratic methods in creating local plans;
8. Providing financial incentives for local authorities to include affordable housing in their local plan;
9. Encouraging county councils & unitary authorities to compile infrastructure plans;
10. Placing a duty to co-operate on LPAs;
11. Establishing a “*presumption in favour of sustainable development*”;
12. Ensuring that the design of “*significant local projects*” involves the neighbourhood;
13. Creating a faster approvals process for applications for which the majority of immediate neighbours raise no objections: “*This will give developers a strong incentive either to design buildings in ways that do not adversely affect immediate neighbours (perhaps by involving immediate neighbours in designing these new buildings), or to reach voluntary agreements that recompense immediate neighbours for any loss of amenity.*”
14. Increased powers of enforcement for LPAs
(Conservatives 2009)

At a national level: “*we will publish and present to Parliament for debate a simple and consolidated national planning framework, which will set out national economic and*

environmental priorities, and how the planning system will deliver them". (Conservatives 2009)
This includes replacing the existing national planning policy statements with a reduced, simplified set (see 7.5 below).

The paper also proposes the abolition of the Infrastructure Planning Commission.

5.3 Revocation of Regional Spatial Strategies

In July 2010, the government revoked Regional Spatial Strategies (DCLG 2010b), despite consultation responses from the Royal Town Planning Institute (RTPI), Town & Country Planning Association (TCPA) and Royal Institute of British Architects (RIBA) all expressing serious reservations about this action (RTPI 2010, TCPA 2010a, TCPA 2010b, RIBA 2010).

5.4 Localism Bill

The Localism Bill was introduced to parliament on 13th December 2010 and passed its second reading in the House of Commons the 17th January 2011. Chapter 5 of the bill relates to planning and contains some of the proposals set out in the Open Source Planning Green Paper. It:

1. *“enables the abolition of regional strategies, places a duty to cooperate on local planning authorities [on matters formerly covered at a regional level] and other bodies and makes changes to the processes for adopting, examining and publishing development plan documents. [LDFs]*
2. *limits the binding nature of Planning Inspectorate recommendations on Community Infrastructure Levy charging schedules, provides for requiring charging authorities to pass Community Infrastructure Levy funds to other bodies and clarifies the definition of infrastructure for the purposes of the Community Infrastructure Levy.*
3. *provides for the creation of neighbourhood development orders and plans, sets out the requirements they must meet and provides for appropriate charges and financial assistance. This Chapter also sets out how community right to build assets will be managed.*
4. *provides for compulsory pre-application consultation for developments above certain thresholds.*
5. *allows local authorities in England to decline to determine retrospective planning applications where enforcement action is being taken. It also allows authorities to apply to a Magistrate’s Court to enable enforcement action after statutory time limits have been exceeded, where there is evidence of deliberate deception and it increases some penalties and adjusts certain time limits with respect to enforcement. Finally, it provides powers relating to unauthorised adverts and the defacement of premises.*

6. *makes provision in relation to nationally significant infrastructure, particularly the abolition of the Infrastructure Planning Commission.*
7. *confers legislative competence on the National Assembly for Wales in relation to aspects of town and country planning, including the processes for deciding planning applications and enforcement” (Parliament 2010)*

At the time of writing the bill has progressed to the committee stage, where details of the bill may be amended. There is an opportunity for interested parties to submit written evidence for consideration by the committee.

5.5 DCLG consultation on the National Planning Framework

While the localism bill is going through parliament, the Department for Communities and Local Government (DCLG) is also consulting on the national planning policy framework – one of the proposals set out in Open Source Planning.

“The Planning Minister Greg Clark has announced a review of planning policy, designed to consolidate policy statements, circulars and guidance documents into a single consolidated National Planning Policy Framework. The new Framework will be:

- *localist in its approach, handing power back to local communities to decide what is right for them*
- *used as a mechanism for delivering Government objectives only where it is relevant, proportionate and effective to do so and*
- *user-friendly and accessible, providing clear policies on making robust local and neighbourhood plans and development management decisions*

The Minister has invited organisations and individuals to offer their suggestions to the Department on what priorities and policies we might adopt to produce a shorter, more decentralised and less bureaucratic National Planning Policy Framework.”

(DCLG 2010d)

While this is still under consultation it is unclear what the contents of the new national planning policy framework might be. However, it would seem likely to contain some of the proposals set out in the Open Source Planning green paper that are not contained in the Localism Bill.

The consultation window for the National Planning Framework closes on the 28th February 2011.

Chapter 6 – Research Methodology

6.1 Research Aims

As noted in the previous chapter, the Public Bill Committee charged with scrutinizing the Localism Bill is inviting written evidence. Also the consultation window for the National Planning Framework is open.

Parties interested in future LIDs have an opportunity to make a representation on both. This research aims to provide empirical evidence to inform such a consultation response.

Moreover, if legislation made during this government is likely to seriously impact opportunities for future low impact developers, they need to understand the likely outcomes and adjust their strategies accordingly.

The key aim of the research, then, is to explore expert opinion on how the planning policy landscape is likely to change for Low Impact Developments, and establish – or refute – the validity of those opinions (i.e. to establish *legitimation*²).

6.2 Approach

An approach using purely deductive reasoning would start with a theory and test it:

Theory; hypothesis; observation; confirmation. (Trochim 2006a)

However, as noted there is a limited body of literature on which to base the formulation of a hypothesis. Consequently it is necessary to take an exploratory approach initially and construct the hypothesis from a range of sources. In this case, inductive reasoning is more appropriate:

Observation; pattern; tentative hypothesis; theory. (Trochim 2006a)

Once the theory has been developed, it is possible to employ a deductive approach to attempt to verify it's validity, so a process of mixed inductive and deductive reasoning emerges as the most useful:

Observation; pattern; tentative hypothesis; theory; observation; confirmation. (Trochim 2006a)

² *Legitimation* is an emergent term used to describe the cumulative validity in multi-phase mixed methods research approaches (Onwuegbuzie & Johnson 2006)

Specifically, the study will explore expert opinion on the proposals and then seek to understand to what extent the theories advanced by the experts might be generalised to the existing population of LIDs.

6.3 Methods

Because of the mixture of inductive and deductive reasoning it is appropriate to employ a mixed methods approach that will employ qualitative and quantitative methods. (Cresswell 2009).

Specifically, a sequential mixed methods design is useful because it allows analysis of the data gathered from the inductive (i.e. qualitative) phase to inform the tentative hypothesis for the deductive (i.e. quantitative) phase. Creswell describes this approach as a “*sequential exploratory design*” (Cresswell 2009) See figure 6.1.

Qualitative Phase				Quantitative Phase				Summary
Data Collection	➔	Data Analysis	➔	Data Collection	➔	Data Analysis	➔	Interpretation of Entire Analysis

Figure 6.3 Sequential Exploratory Design (Adapted from Cresswell 2009, P.209)

6.3.1 Qualitative Methods

The methods used in the qualitative phase can be broken into two parts.

6.3.1.1 Phase 1A

A desk-top study of stakeholder organisations’ consultation responses and other representations will reveal the broad issues and provide context for the subsequent phases. This phase of the research performs a similar function to a formal literature review. However, there is only a small body of written work available for consideration, and none of the publications are peer reviewed. Consequently it is arguably spurious to describe this phase as a literature review, and so will be described as phase 1A.

6.3.1.2 Phase 1B

The understanding gained from phase 1A can then be used to inform the questions put to planning experts to gain an understanding of how these issues may affect LIDs. Open-ended questions will then allow experts to raise issues that may not have been anticipated.

This second phase could take the form of focus groups, written or online questionnaires, face-to-face or telephone interviews.

Written or online questionnaires depend on the respondent filling them in. Also, the format is inflexible and cannot adapt to explore the information being provided by the respondent.

Focus groups may be a useful method to use, although there is the possibility of one of the group members dominating the discussion. Alternatively, group members may feel inhibited about expressing views that contradict a consensus view held by the other members.

Face to face interviews are arguably the ideal method, but as the respondents are highly geographically dispersed, there is a significant time and cost implication associated with this method.

The advantage of telephone interviews is that they allow a fluid, conversational exploration of the issues, while reducing time and cost associated with travel.

6.3.2 Quantitative Methods

Quantitative methods can be employed to gain an understanding of how well the experts' opinions match the wider LID population. This is because the planning consultants or the expert witnesses cannot be assumed to have a complete overview of all LIDs' planning applications: their responses are likely to be informed by the limited number of cases they are familiar with. Consequently it is useful to ascertain some numerical data to substantiate or disprove any concerns raised during phase 1.

A questionnaire is appropriate to this phase of the research as it allows focused questions that will yield numerical data. As LIDs are also geographically dispersed, an online or postal questionnaire is appropriate. However, postal questionnaires require transcribing, depend on the respondent physically going to the local post box and incur postage costs. However, some rural LIDs do not have internet connections. In these instances, the researcher may telephone the respondents and take them through the questionnaire over the phone.

To augment the questionnaire survey, a review of reports on LID planning cases in published media and case files can be conducted.

The data collected from the questionnaires, media reports & case files can be analysed numerically to try to establish the validity of the experts' opinions.

6.4 Validity

6.4.1 Realms of Research & Cumulative Validity

Trochim (2006) notes that there are 2 realms of research, theory and observation:

Theory: what the researcher thinks		
Cause construct	Cause-effect construct	Effect construct
Operationalize		
Programme (Research methods)	Programme-outcome relationship (What is tested)	Observations (What is recorded)
Observation: what the researcher tests		

Table 6.1: Realms of Research. Adapted from Trochim (2006b).

Between these realms, the researcher *operationalizes* the theory: i.e. the research is designed so that the observations made accurately reflect the cause and effect constructs. For example, as many external variables as possible are excluded to ensure that it is indeed the cause construct that is being measured. Consequently conclusions about the effect construct are more reliable.

Trochim also states that validity in research is cumulative:

Conclusion Validity		Internal Validity		Construct Validity		External Validity		Validity
Is there a relationship between cause and effect?	Yes →	Is the relationship causal?	Yes →	Can we generalise to the (cause & effect) constructs?	Yes →	Can we generalise to other people, places, times?	Yes →	Validity is improved

Figure 6.2: Cumulative Validity. Adapted from Trochim (2006b).

6.4.2 Approach to Improving Validity

In the quantitative phase of this study, we are seeking to understand:

- if there will be a relationship between various changes in policy (the cause) and the ease or difficulty with which future LIDs will obtain planning permission (the effect);
- if that relationship will be causal;
- whether conclusions about past planning cases can be generalized to the constructs (i.e. theories about future planning cases), and;
- whether those constructs can be generalised to the entire LID population.

6.4.2.1 Conclusion Validity

This is problematic: it is not possible to measure something that has not happened yet, so it is difficult to establish conclusion validity. Instead this study must assume that past cases provide an indicator of likely outcomes in future cases. Conclusion validity will be improved if it can be shown that there is a strong correlation between the use of various policy instruments & procedures and past planning case success.

6.4.2.2 Internal Validity

Internal validity in this study rests on the extent to which the invocation of a given planning policy or procedure determines the outcome of past cases. This is difficult to demonstrate because each planning case is unique, with many variables. Indeed the number and type of variables at play is itself variable across different cases. However, by identifying patterns across a large enough sample, common threads emerge and internal validity is strengthened.

6.4.3.3 Construct Validity

Construct Validity in this study depends on the accuracy of the assumption that we can extrapolate historical results to future outcomes. This is, of course, difficult to know with certainty. Instead, the study must proceed with a stated assumption that features of past planning cases indicate the *likelihood* of future outcomes. For example, if 25% of past cases invoked a particular policy instrument successfully, the study will assume that it is *likely* that the removal of that policy instrument will influence the outcome of 25% of future cases.

6.4.3.4 External Validity

External validity will improve as the samples used in the study become more representative of the wider populations.

6.5 Choice of Subjects

6.5.1 Phase 1A

The key stakeholders who would be able to offer the most informed consultation responses were the professional bodies: RTPI & RIBA and the campaign groups: TCPA and Chapter 7. It was felt that these groups represented a mixture of informed professionalism (if not impartiality), experience in the sector, and willingness to offer a critical appraisal of planning issues with an in-depth understanding of environmental issues and, in the case of Chapter 7, a solid appreciation of the issues relating to LIDs.

6.5.2 Phase 1B

The subjects chosen for phase 1B of the research were either planning consultants recommended by chapter 7 as having a good understanding of issues relating to LIDs or people who had appeared as expert witnesses in high profile LID appeals.

Because these subjects have been involved in representing LIDs and permaculture there is a possibility of bias among this population. However, this phase of the research is intended to explore the potential impacts, and not to seek judgements on the proposals. As such, familiarity with multiple LID cases on the part of the respondents is important. Furthermore, the subsequent, quantitative phase of the research will seek to test the external validity of the experts' theories.

6.5.3 Phase 2

The subjects chosen for phase 2 were identified from articles in back issues of *The Land* magazine (which incorporates *Chapter 7 News*), *Permaculture Works* – the newsletter of the Permaculture Association – and *Permaculture Magazine*. All three publications regularly report on LID planning applications.

Finally, the Permaculture Association holds a reference library of case notes for the planning applications that it has been called in to act as an expert witness for.

This is believed to yield a representative, if not exhaustive list of LIDs in England and Wales. A downside to this approach is that using a variety of data sources introduces additional variables to the study. However, the author feels that, in order to support external validity, it is important to use the largest practical sample.

6.6 Ethical Considerations

There is scope for data gathered during phase 1B of the research to affect respondents' professional reputations, and data from phase 2 to prejudice individual planning cases. As such, confidentiality and anonymity are important considerations.

All questionnaire and interview respondents will be offered anonymity and confidentiality, and information gleaned from planning case notes will be restricted to published data. Some quotes are not attributed at the request of the respondent or discretion of the author.

Chapter 7 – Methods

7.1 Phase 1A

Phase 1 (A & B) Began with the research question “What are the likely implications of proposed changes to the planning system for Low Impact Developments”.

The first phase involved conducting a review of key stakeholders’ responses to the Open Source Planning green paper, the DCLG consultation on National Planning Framework and other representations. Common themes were identified and collated, and informed the choice of interview questions used in phase 2.

7.2 Phase 1B

The second phase involved interviewing various planning consultants and other expert witnesses who were known to have experience of LIDs’ planning cases. These were identified from the list of recommended planning consultants published in Chapter 7’s *DIY Planning Handbook* and from case notes of various LIDs’ planning applications & appeals.

Telephone and face-to-face interviews were conducted with these experts to gain an understanding of their views. Specifically, the research sought to identify areas of planning policy or procedure that have historically been exploited by LIDs that might be removed.

Some analysis was performed on these results to identify the common themes and areas of most importance as indicated by the respondents.

One of the planning consultants asked for no direct attribution of comments to them, so the names of all have been withheld in the presentation of results to protect their identity. Expert witness Andy Goldring was happy to have his comments attributed to him.

7.3 Phase 2

Phase 2 began by constructing a set of hypotheses based on the outcomes of phase 1.

This phase used series of case file reviews, articles from *The Land* magazine, online and telephone questionnaires to ask various LIDs questions that would reveal how well the theories put forward by the planning consultants could be generalised to the wider population of LIDs.

This was done by ascertaining how many previous LIDs' planning cases had hinged on given areas of planning policy or procedure. For example, if the experts stated that the withdrawal of the facility to grant retrospective permission would be a problem, the LID cases were examined to see what proportion of LIDs had used retrospective permission in their case. In this way the extent of the likely impact of each policy proposal could be quantified.

Chapter 8 – Phase 1A Results & Discussion

8.1 Results

Selected quotes from stakeholders' consultation responses are presented here. The position of various responses on a number of issues is summarised in table 8.1 on page 47.

8.1.1 Royal Town Planning Institute (RTPI):

The RTPI is a professional institute of planners with over 23,000 members (RTPI 2010b). The RTPI's response to the Open Source Planning Green Papers states:

'We welcome the publication of the Conservatives' planning green paper... and we are particularly pleased that they are proposing a National Planning Framework...

However... few of the Conservatives' stated aims actually need a radical change to the planning system, change which could lead to a period of uncertainty, resulting in serious consequences for the provision of housing, employment and key infrastructure, as well as for overall economic recovery.

...we have concerns about... abolishing regional planning, enabling so-called third-party rights of appeal and introducing a presumption in favour of sustainable development'

(RTPI 2010a)

8.1.2 Royal Institute of British Architects (RIBA)

RIBA represents 86% of registered architects in the UK. They aim to advance architecture and promote excellence in the profession.

"In summary: We support

- *Reducing complexity by streamlining planning policy and separating policy from guidance and reduce duplication between them. This would be very welcome from those using the planning system.*
- *Measures to engage local communities with the need for and benefit of development choices in their area. We do not want communities to turn their backs on development and we agree that there should be an overarching emphasis on well designed sustainable development meeting local aspirations and need.*
- *We support the proposals for:*
 - *simplified presumption to be applied in planning decisions*
 - *a review of Planning Policy Statements*
 - *simplification of the Local Development Framework system*
 - *a national planning framework*

We oppose

- *The likely outcome that local authorities become more reluctant to sign off controversial or significant developments, despite sometimes such schemes being in the public and local interest, and in keeping with the local development plan. We are concerned that under these proposals there remains the possibility for a Nimby's charter. There is already a tendency for development to take place in the least suitable places because that is where there is the line of least resistance, and we believe this trend would be exacerbated.*
- *We are concerned some of the proposals may not work in the way they are intended. For example, the idea that extended permitted development rights could significantly reduce inefficiencies in the planning system is not borne out by the evidence, and the introduction of a third party right of appeal would do little to increase the democracy of the current system but would undoubtedly significantly increase the burden on already stretched local planning authorities.” (RIBA 2010)*

The RIBA response goes into some detail and responds to all the key proposals. Their position on the various points is summarised in table 8.1. The first point that RIBA opposes (“possibility for a Nimby’s charter”) seems likely to apply to those LIDs that encounter significant local opposition.

8.1.3 Town & Country Planning Association (TCPA)

The TCPA is a campaign group who work to make the planning system more responsive to people’s needs. They claim to represent developers, the environmental movement and those interested in social justice. Their response to Open Source Planning states:

“The Conservative Green Paper on planning does not reflect spatial planning's crucial role and ability to adapt to, and mitigate, the effects of climate change. Given the scale of the climate change challenge and the shift in acceptance that will be required to meet our national and EU renewable energy targets there is a clear need for climate change to be central to the planning framework. We are keen to work with the Conservative Party to ensure that planning reforms not only reflect the latest climate science, but provide clearer specific guidance as to the weight to be given to climate change in planning.”

(TCPA 2010a)

“the Government has revoked the Regional Spatial Strategies and abolished the regional tier of governance. This has removed the long term vision and strategic oversight of local planning and delivery of services. This may impede the sustainability of local development in terms of coherence and integration, in particular where functions extend beyond administrative boundaries.

A practical example of the problem would be how, under a purely localised planning regime, controversial development for energy projects or for the Gypsy and Traveller community or asylum seekers might be delivered? The Government has outlined a proposed system of incentives for some forms of development but it is unlikely that this system will be sufficient enough [sic] to overcome ingrained local opposition.”

(TCPA 2010b)

8.1.4 Chapter 7

Chapter 7 campaigns for a planning system which actively encourages sustainable, low impact and affordable homes. The name is derived from Chapter 7 of Agenda 21, which states that:

'All countries should . . . promote the increased use of energy efficient designs and technologies and sustainable use of natural resources. . . develop policies and practices to reach the informal sector and self-help builders . . . discourage the use of construction materials and products that create pollution during their life cycle.'

(United Nations 1992)

In September 2010, Chapter 7 issued an update to their “*DIY Planning Handbook*”. It contained a briefing for low impact developers on the proposed policy changes. It highlighted the following issues as being of most relevance to LIDs.

1. Abolition of Regional Spatial Strategies: Chapter 7 welcome this on the basis that regional planning is inherently bureaucratic and undemocratic.
2. Affordable Housing and Self Build: The government proposes a “local tariff” to replace the *infrastructure levy*. However, affordable housing and self build houses will be exempt from paying this. Chapter 7 notes the following statement as a potentially positive signal from the Conservatives: “*Self built homes – like local housing trusts – are a perfect embodiment of individual and families taking responsibility where under [the Labour] government, the state has sucked the power out of communities.*” (Chapter 7 2010, after Conservatives 2009)
3. Flexible Zoning: Chapter 7 note that proposals here are potentially encouraging for LIDs, but warn that it could lead to local blanket policies ruling out any development in the countryside. This, taken with point 4, below, would effectively render Annex A of PPS 7 irrelevant (assuming it remained intact in the new national planning framework).
4. No More Exceptions: This is highlighted as the most worrying proposal for LIDs by chapter 7:

“At present, section 54A of the 1990 Town & Country Planning Act is still in force, stating that ‘applications must be determined in accordance with the

development plan unless material considerations indicate otherwise’ This clause is the foundation for many appeals... Under the new system once a local plan is approved conformity with the plan becomes mandatory...

It will no longer be possible to appeal against a planning refusal either on the basis that the decision goes against national planning guidance or other relevant legislation, or on the basis that circumstances apply which were not envisaged in the plan...

There will therefore be no space to appeal against bizarre interpretations of ‘sustainability’ and ‘sustainable development’ potentially ruling out of court many of the key arguments in cases relating to low impact development, permaculture and residential smallholdings. ” (Chapter 7 2010)

5. Retrospective Permission:

“clearly the idea is to remove the possibility of moving onto a piece of land or building a house, for example, and applying for permission afterwards. It presumably means abolishing the right to enforcement appeal, and conceivably making development without permission a criminal offence.

A new power is also proposed to revoke permission where ‘the application was misleading’. One wonders how the four and ten year rule provisions for obtaining certificates of lawful use could remain intact under such a regime.” (Chapter 7 2010)

6. Traveller Policy: Chapter 7 note that some LIDs benefit from being “traveller related” (Chapter 7 2010). Proposals in the green paper scrap the imposition of targets for traveller site provision on LPAs, and instead devolve the decision on what is appropriate provision to the local level.

8.1.5 Alliance of Various Groups

On the 5th of August 2010, the RTPI co-ordinated an open letter to the secretary of state for Communities & Local Government from an alliance of 29 organisations³ entitled “*Localism Must*

³ Association of Building Engineers, Association of Consultant Architects, Association of Directors of Environment Economy Planning and Transport, British Property Federation, British Urban Regeneration Association, Campaign to Protect Rural England, Campaign for Better Transport, Chartered Institute of Housing, Construction Industry Council, Country Land and Business Association, Environmental Protection UK, Freight on Rail, Friends of the Earth, Institute of Historic Building Conservation, Institution of Civil Engineers, Institution of Structural Engineers, Landscape Institute, Local Government Technical Advisers Group, National Housing Federation, Planning Officers Society, Rail Freight Group, Royal Institute of British Architects, Royal Society for the Protection of Birds, Royal Town Planning Institute, Shelter, Sustrans, Town and Country Planning Association, UK Green Building Council and WWF-UK.

Not Miss the Bigger Picture on Planning". The letter signalled concerns that the Government's localism agenda would leave a policy vacuum at the strategic level. The letter was:

"driven by twin concerns. First, we wish to ensure that any new Government policies truly improve the ability of the system to deliver positive outcomes for communities. Secondly, we wish to ensure that this larger than local planning and investment – which we term strategic planning – is carried out to address the most pressing issues facing the nation such as economic recovery, meeting housing need and demand, sustainable transport, regeneration, sustainable development and growth, investment in our infrastructure, biodiversity loss, climate change, and reducing inequality..." (RTPI 2010b)

The letter also mentioned that the signatories are *"concerned that some aspects of the Government's proposals may potentially hinder solutions to providing much needed housing in appropriate locations, to investment in enterprise and to providing a lead on tackling climate change."* (RTPI 2010b)

8.2 Discussion

The results of the various consultation responses are summarised below.

Aspect of Proposals	RTPI	RIBA	TCPA	Chapter 7	Alliance
“Radical reboot” of planning system	X	X	X	-	-
National Planning Framework	✓	✓	✓	✓ (cautiously)	-
Abolition of Regional Spatial Strategies	X	X	X	✓	X
Allow 3 rd party appeals	X	X	-	X	-
Presumption in favour of Sustainable development	X	X	-	X	-
Collaborative democracy in preparing local plans	-	✓	✓	-	-
Possibility of a “Nimby charter”	-	X	X	X	-
Changes to appeal process	-	X	-	X	-
Inspectorate unable to rewrite local plans	-	X	-	-	-
Amending use classes order	-	X	-	✓ (cautiously)	-
Limiting retrospective permission	-	X	-	X	-
Traveller policy	-	X	X	X	-

Table 8.1 Summary of consultation responses. X = oppose or indicate concern; ✓ = support; - = no data

8.2.1 Limitations of the Literature

The RTPI & TCPA responses lacked detail. The RIBA response was detailed but lacks any appreciation of LIDs. In contrast, Chapter 7 briefing was detailed with respect to LIDs, but did not tackle each point in the green paper in detail.

All of the responses reviewed here were issued prior the Localism Bill.

8.2.2 Key Themes

8.2.2.1 Uncertainty Will Inhibit Development

The “radical reboot” referred to in the Green Paper caused concern among the respondents. It was felt that this will lead to unnecessary uncertainty for developers and will stymie investment.

8.2.2.2 National Planning Framework

All of the respondents that commented on the introduction of the National Planning Framework were broadly supportive of the initiative. Some concerns were raised about the likely contents.

8.2.2.3 Abolition of RSS

With the exception of Chapter 7, all the respondents felt that the abolition of regional spatial strategies without replacement with a similar tier of policy will leave a policy vacuum that will lead to serious problems in terms of infrastructure provision. The view was that, even with the proposed duty to co-operate, LPAs may be unwilling to grant permission for regional-level developments such as hospitals or sustainable transport infrastructure.

8.2.2.4 “Nimby Charter”

Several of the responses cited the possibility of a “Nimby Charter” emerging from the proposals. This will make it harder to obtain planning permission for anything innovative, alternative or challenging. The RIBA response cited the Angel of the North as an example of a development that was initially unpopular with local residents, but has since been embraced as a regional symbol in which they take great pride. Under the new proposals, such developments would be very difficult to achieve.

8.2.2.5 Travellers & Gypsies

RIBA, TCPA and Chapter 7 all expressed concerns that the provision of sites for travellers and gypsies will be seriously reduced under the new proposals.

8.2.2.6 LIDs

While only Chapter 7 explicitly discussed the implications for LIDs, some of the key themes identified above may have a bearing on LIDs:

- Uncertainty about the direction of the planning system may have a paralysing effect on LIDs that are currently in development;
- The introduction of a new national planning framework could either bring an explicit LID policy or remove the facility currently provided by Annex A of PPS 7;
- It is unclear how the abolition of RSSs might impact LIDs;
- The creation of a “Nimby charter” could make it more challenging for LIDs to obtain permission;
- Changes to traveller policies could create problems for LIDs where occupants wish to use Gypsy or traveller status as part of their planning case.

Chapter 9 – Phase 1B Results & Discussion

9.1 Results

Two of the planning consultants were happy to have their name associated with the study, but felt that they could give more honest answers if their responses were not directly attributed to them. Consequently, all the planning consultants are referred to as “planning consultant #”.

9.1.1 Question 1. Please briefly outline your experience with planning & LIDs

1. Planning consultant 1: *“Worked on Several LID, Gypsy & Traveller cases”*
2. Planning consultant 2: *“Worked on several low impact planning cases over the last 20 years.”*
3. Planning consultant 3: *“My own experience of getting planning for my LID... Since then I’ve been involved with a number of other cases... Experience as an applicant, appellant and consultant and written academic & journal articles about planning.”*
4. Andy Goldring: *“Chief Executive of the Permaculture Association. Have acted as an expert witness for several LIDs’ planning cases: including Landmatters, Steward Wood, Karuna, Turners Field, Sustainable Lifestyle Research Co-op and Lammas”*

9.1.2 Question 2: How do you think Open Source Planning will affect LIDs?

1. Planning consultant 1: *“It will almost certainly support Nimbys. For example parish councils’ influence will grow significantly, but they are not qualified to make these decisions and – in my experience – tend to simply go with the majority view. This means that for a given development, the number of local support or objection letters can swing decisions. It will make it almost impossible to build anything unpopular anywhere.*

The strict limits that will be placed on the right to appeal against decisions will cause severe problems. This implies that more effort will have to go into getting national and local policies right”

2. Planning consultant 2: *“I don’t think it will support these initiatives [LIDs] – they won’t be so constrained by e.g. PPG 7 requirements but will still require a level of local support...”*

A more local approach to planning means that those people will not readily find favour within communities.”

3. Planning consultant 3: *“Strong thrust towards downgrading the powers of the planning inspectorate both at the level of the local plan and determining appeals. The coalition is trying to push that power to the local authority. They’re talking about putting a layer beneath current plans – neighbourhood level, e.g. parish council levels (Neighbourhood plan or development order) which still has to be compliant with local plan as it currently exists. But if you make a plan at neighbourhood level and it’s commensurate with the local plan, then things can be approved without having to go and get planning permission at all. Notion of presumption in favour of sustainable development (which nobody can tell what it means) means that anything that fits the neighbourhood plan can go through.*

The flipside of this with respect to LIDs is that neighbourhood plans could say “such and such a thing cannot happen” – potential for a Nimby charter. This is a strong area of concern.

Of course it would be possible, e.g. somewhere like Totnes with a strong transition movement - to develop a very progressive neighbourhood development order [that would be favourable to LID]

It’s not completely clear what will happen about retrospective permission. I’m waiting to read proper interpretations from lawyers. I can’t see how they can take it out. It’s very important because many LID appeals are successful Ground (a) appeals (chapter 7 say “move on first then wait for them to come to you”: this is the sort of thing the bill is trying to combat). If everybody has to do a Lammas [apply for permission before moving on or building] it’ll be very hard. Still to become clear exactly what will happen, but it will be very difficult to get a retrospective once enforcement action has been started.

A bit early to say, but reducing the inspectorate’s power – if something isn’t in the plan and LPA says no, then the inspectorate won’t be able to reverse the decision based on material considerations, or suggest changes to local plans (although they do sign them off). The idea is that plan becomes more sovereign. I haven’t seen anything yet in the localism bill that puts this into effect, but it suggests that it’s more important to get a good policy in the plan. Hopefully we could use new thrust to LIDs’ advantage by doing that. The record of people getting payoff for putting effort into lobbying is not good though.

Regarding Certificates of Lawful use: enforcement powers will be ramped up against people who have concealed development – this is a loophole being closed. Inconvenient for people who have used these routes.”

4. Andy Goldring: *“Unless low impact development is embedded within national & local plan it’ll be virtually impossible to achieve [planning permission]... It will squeeze opportunities for low impact development. The opportunity to experiment is going to be much reduced.*

I don’t know of any local plans that say “this is where we’re going to have small scale sustainable market gardening with low impact buildings” – it isn’t seen as part of local planning. Unless we have a massive shift in forward planning policy makers’ minds whereby they think “we need to have local small scale producers” it’s probably not going to happen.”

9.1.3 Question 3: What do you think are the implications of the Localism Bill for LIDs?

1. Planning consultant 1: *“I don’t know what’s happening with the Localism Bill. The RTPI are failing to give enough guidance on the details. I only know that the system will change, but the changes seem to be ill-conceived and inconsistent.”*
2. Planning consultant 2: *“I haven’t looked at it from this perspective yet.”*
3. Planning consultant 3: *“It’s possible that lots of [the policy proposals] will sink into the mire. Several have been clarified by the appearance of the localism bill – e.g. 3rd party appeal – the smart money says it won’t happen as it didn’t go into the localism bill. I don’t think there’ll be another planning bill as lots of the green paper has appeared in the localism bill. Associated secondary legislation will come out in its wake such as the national planning framework.
One thing that is confusing but should be a focus for lobbying is this phrase ‘presumption in favour of sustainable development’ – nobody knows what it means and there’s nothing in the localism bill to clarify. It seems to be another way of saying they want more stuff to be built and it should be sustainable (sustainable development term has not been clarified – could be a focus for lobbying “we think you should include the following in the definition: stuff about low impact development”).”*
4. Andy Goldring: *“Not sure.”*

9.1.4 Question 4: What do you think the wider implications of the proposed changes might be?

1. Planning consultant 1: *“Travellers & Gypsies will be affected far more seriously than LIDs; local opposition tends to be much stiffer and more vociferous for a range of reasons, principally prejudice.”*
2. Planning consultant 2: *“Unpopular decisions can get forced through (e.g. nuclear power); but these kinds of innovations [Low Impact Developments & Livelihoods] won’t benefit, so I have a concern for Low impact developers. I really doubt that small-scale innovative developments that are controversial have been considered in the policy proposals; I can’t see how they could make their way through without significant local support.”*
3. Planning consultant 3: *“New PPS4 has left in place Annex A of PPS7. If Annex A is removed it could be the single biggest blow to LIDs and permaculture projects, because this is the route by which most permission has been obtained. We need to make a representation on this before they hold their bonfire of national guidance. We are looking at losing 50-60 years of planning guidance –we probably need to lobby on this quite swiftly. Need to ensure that various minority communities don’t get squeezed out.*

It might be possible for some people to do OK, but probably only by taking over your neighbourhood plan. Maybe we need to form a coalition to make representations on this – progressive planners, Chapter 7, AECB, Permaculture Association, etc.”

4. Andy Goldring: *“A lot of this is about taking away the negotiation – the retrospective permission was an opportunity to make your case even if you hadn’t done it properly. If you can’t appeal against a decision unless it’s on a technicality then it assumes that the people making the decision always have perfect knowledge; the presumption is that they’re always right. If the decision is ‘we think this is an inappropriate use of space’, there is no scope for discussion.*

The danger of what they’re doing is that the national planning framework becomes absolutely essential to guide what happens locally... [and] you get a local plan formed by local people that is parochial in the negative sense.

There are plus points: an area with progressive, educated people who understand what’s possible with sustainable techniques, and ecological design thinking, (it will still be quite tough for this to get through but it is possible)... you get quite a good plan. The other danger is that you get people who historically have been from a deprived area with a

narrow sense of what the future holds and what's possible and the plan isn't very good, but the planning inspectorate can't intervene. It has the potential to be driven by Nimbys who want everything to be like it wasn't in 1950 [i.e. an idealised, romantic caricature of the past]. The neighbourhood plan in Totnes is going to look very different to the one in say, Dewsbury."

"There's a possibility of Wales becoming a LID haven. It's also possible that the changes in wales [e.g. due to TAN6 & One Planet Development] will mean that the ideas pioneered by permaculturists & Low Impact Developers will get adopted much more widely. There could be an eco brain-drain from England to Wales, but also eco-influence spreading into the wider Welsh population – i.e. the positive aspect of what's happening in Wales."

9.1.5 Question 5: Do you have any other comments or points you'd like to raise?

1. Planning consultant 1: *"The current uncertainty is causing major difficulties: planners cannot give advice, which is inhibiting investment decisions. Development control officers are refusing applications and appeals for travellers' sites based on the fact that the existing policy will change, but they don't know what to. The situation is likely to result in more homelessness among the traveller community. It's a recipe for disaster."*
2. Planning consultant 2: *"Not at the moment."*
3. Planning consultant 3: *"The Planning Inspectorate have had their budget cut by 25-30% Consequently they're more reluctant to use procedures other than the basic written one, which is cheaper. This bad if you're trying to do anything complex and unusual. It isn't to do with policy change, but more because of climate of austerity & budget cuts."*
4. Andy Goldring: *"I worry that their use of the term "sustainable development" is meaningless. In some of the instances where it's used I question what is meant by the term – especially in the open source planning green paper.*

The potential benefit of this is that they [planners] can get together with local people and come up with something useful. There could be something significant and useful in this approach, but it's by no means assured.

This is a pro-growth & development agenda, not a pro-sustainability agenda. If local plans don't get made in time, national planning guidance is the default and the local plan is entirely permissive so [the national plan] must embody sustainability. Big

developers will walk all over local councils that don't have local plans in place – could say this is a Nimby charter or you could say it's a pro-business charter.

It doesn't seem un-bureaucratic to have 650 LPAs define their own architectural & design standards instead of just 1 national one. Locally appropriate architectural & design standards are great in terms of local vernacular, sourcing local materials etc. you could create a market for local materials, e.g. local timber, thatch, etc – could stimulate local economy & sustainable use of natural materials (although this is a bit utopian).

In summary I see significant challenges for LIDs.”

9.2 Discussion

The points raised by the respondents in phase 1B have been divided into two groups: themes arising from specific policy proposals (Table 9.1) and wider implications, inferences and other issues (Table 9.2).

Theme	No. Respondents
Possibility for a “Nimby charter” will cause problems for LIDs	4
Strict Limits on appeals will cause problems for LIDs	3
Withdrawal of retrospective applications will cause problems for LIDs	2
Removal of Annex A, PPS7 could cause problems for most LIDs	1
Certificate of Lawful use will cause problems for some LIDs	1
Changes to traveller policy will affect some LIDs	1

Table 9.1 Themes arising from specific policy proposals

The themes were enumerated to form a set of statements about the experts’ views:

1. Theme 1: The issue most commonly identified as likely to impact LIDs’ planning applications was the possibility of the proposals leading to a Nimby charter.
2. Theme 2: The second most commonly cited threat to future LIDs was the proposal to make significant changes to the appeal procedure.
3. Theme 3: The withdrawal of retrospective planning permission was perceived to be a threat because a significant number of LIDs adopt this strategy.
4. Theme 4: The effective end of CLUs was perceived as a threat by one planning consultant.
5. Theme 5: One planning consultant felt that the possible loss of the functional & financial tests in PPS7, Annex A (or equivalent) in the new national planning framework could be a very serious problem for LIDs.

6. Theme 6: The withdrawal of centrally dictated targets for the provision of Traveller and Gypsy sites will cause problems (when taken with Chapter 7's response from phase 1A, this may affect some LIDs).
7. Theme 7: Overall, the respondents felt that it is likely to become more difficult to obtain planning permission for LIDs in England.

Other themes emerged that cannot easily be tested in phase 2. They include the need for input on policy at a national and local level and the unclear definition of the term "Sustainable Development" in the green paper and Localism Bill. Also, radical changes to the planning system were reported to be already causing problems with planning cases, as was the cut in funding to the Planning Inspectorate:

Wider Implication, Inference & Other Issues	No. Respondents
Uncertainty arising from "radical reboot" is causing chaos	2
Unclear definition of 'sustainable development'	2
There will be a need to input into local plan making	2
There will be a need to input into national plan making	2
Wales could become a LID 'haven'	1
Cut in Planning Inspectorate's funding is causing difficulties	1

Table 9.2 Wider implications, inferences & Other Issues.

Chapter 10 – Phase 2 Results & Discussion

10.1 Tentative Hypothesis

Phase 2 tested the themes relating to specific policy proposals listed in Table 9.1. A tentative hypothesis - or set of *null hypotheses* – was constructed based on the themes.

1. Hypothesis 1: A planning system that is a “Nimby charter” is unlikely⁴ to have any effect on LIDs’ prospects of obtaining planning permission.
2. Hypothesis 2: The tightening of grounds on which one may appeal is unlikely to have any effect on LIDs’ prospects of obtaining planning permission.
3. Hypothesis 3: The withdrawal of retrospective planning permission is unlikely to have any effect on LIDs’ prospects of obtaining planning permission.
4. Hypothesis 4: The tightening of conditions under which Certificates of Lawful Use are issued is unlikely to have any effect on LIDs’ prospects of obtaining planning permission.
5. Hypothesis 5: The withdrawal of PPS7 Annex A (or equivalent functionality) is unlikely to have any effect on LIDs’ prospects of obtaining planning permission.
6. Hypothesis 6: Changes to Gypsy & Traveller policies is unlikely to have any effect on LIDs’ prospects of obtaining planning permission.
7. Hypothesis 7: The coalition Government’s proposals are unlikely to have any effect on LIDs’ prospects of obtaining planning permission in England.

Hypothesis 7 can be considered as an overall or cumulative hypothesis that rests on the findings of the others. The questionnaire was designed (Appendix C) - and media reports and planning case notes reviewed (Appendix D) - with these hypotheses in mind.

⁴ The use of the term “unlikely” arguably weakens the hypothesis statement. However, this is a reflection of the difficulties with conclusion and construct validity discussed in chapter 6.

10.2 Results

Hypothesis	1	2			3	4	5	6	7
Feature of case	Nimby Charter ⁵	Plan. Appeal	Enforce. Appeal	Material Cons.	Retro. Perm.	CLU	PPS7 Annex A	Gypsy ⁶	Normal case ⁷
Tinkers Bubble	X	X			X				
King's Hill		X		X	X				
Hockerton									X
Tir Penrhos Isaf							X		
Fivepenny Farm	X	X		X	X		X		
Upcott Wood			X	X	X				
Heaven					X				
Tipi Valley			X		X	X			
Hill Holt Wood									X
Landmatters	X	X		X	X		X		
Keveral Farm	X	X		X	X				
Avalon		X			X	X			
Cabra Farm			X		X				
Steward Wood	X	X		X					
Quicken Wood			X	X	X				
Karuna	X		X	X	X				
Brithdir Mawr			X	X	X				
Lammas	X	X		X					
Cutajar		X		X	X				
Shipton Gorge					X				
Felin Uchaf									X
Northdown Orchard							X		
Coed Hills			X	X	X				
Oorganics	X				X		X		
Prickly Nut Wood							X		

Table 10.1 Features of 25 LIDs' planning cases.

⁵ Cases where near neighbours, parish councillors or others objected to or otherwise hindered LIDs' applications.

⁶ Does the LID benefit from having Gypsy or traveller status?

⁷ Case was not dependent on any of the themes identified in phase 1 of the research.

NOTES:

Some LIDs have submitted multiple planning applications over time, and for different aspects of, or structures within the development; others have undergone both planning & enforcement appeals. In such cases only one application or appeal has been included. This is because the data will be summed later, and we are interested in the proportion of LIDs that have gone through an appeal process, not the absolute number of applications or appeals.

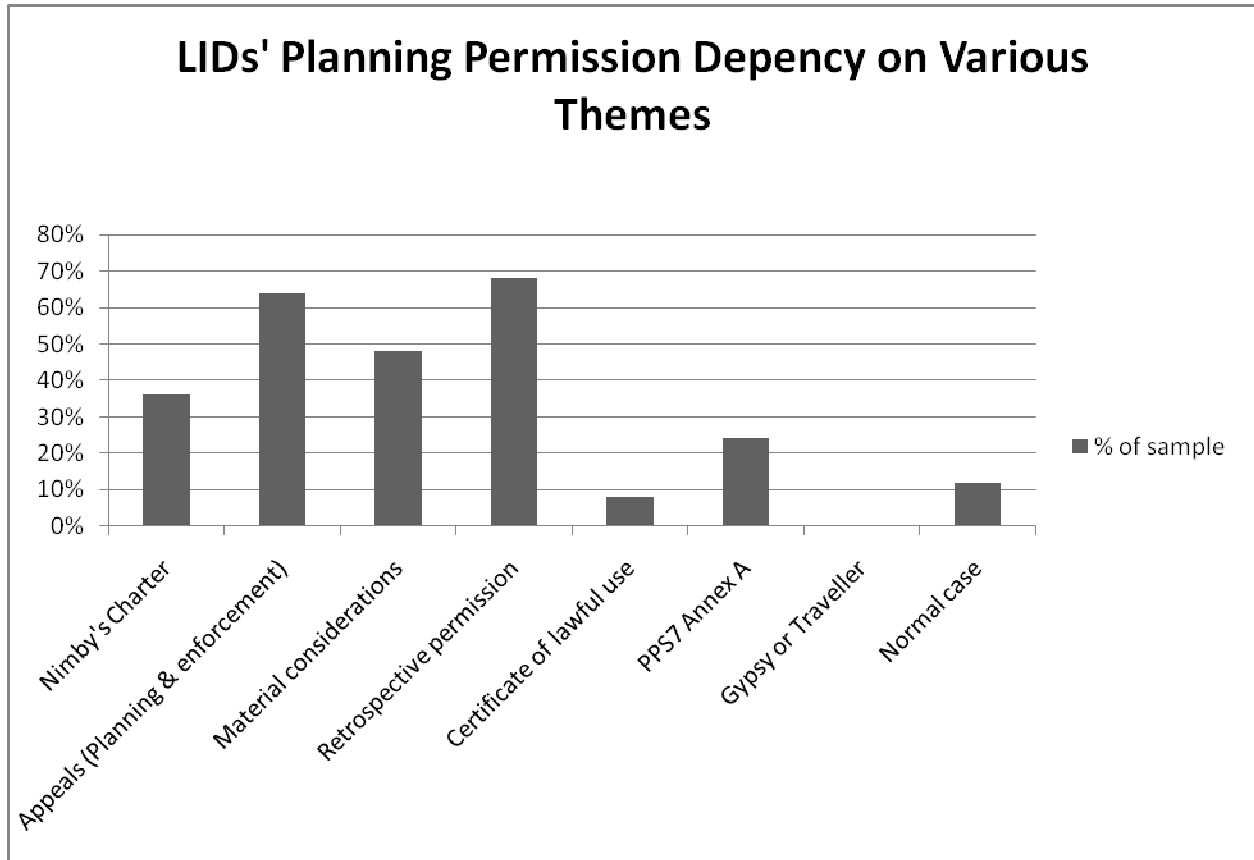


Figure 10.2: LIDs' Planning Permission Dependency on Various Themes.

10.3 Discussion

10.3.1 Hypothesis 1: "Nimby Charter"

A planning system that is a "Nimby charter" is unlikely to have any effect on LIDs' prospects of obtaining planning permission.

Some form of objection or interference by near neighbours or other local people was reported in 36% of LID cases (see figure 10.2). While the majority of LIDs form good relationships with

neighbours (CCW 2002), it seems that giving local people more power over planning decisions would create more difficulties for LIDs in as many as a third of cases. According to one survey respondent:

“Regards your question on Local say so about applications it’s difficult to say. But generally I would say, as in our case if your land is surrounded by local farmers who happen to be influential in the local council as well as being on the Parish council, and there is personal jealousy of one’s land ownership as well as the usual fear and typical NIMBY stuff then local control is not too good. On the other hand if you can make friends with them or get them to keep their negative reactionary behaviour out of it you may get to move forward. But this can take years. For certain the best way is to have a LID policy in place within the local plan.”

The null hypothesis seems to be disproved here.

10.3.2 Hypothesis 2: Appeals

The tightening of grounds on which one may appeal is unlikely to have any effect on LIDs’ prospects of obtaining planning permission.

Appeals are the second most prevalent of the themes in the sample under study, with 64% of LIDs having gone through either a planning or enforcement appeal.

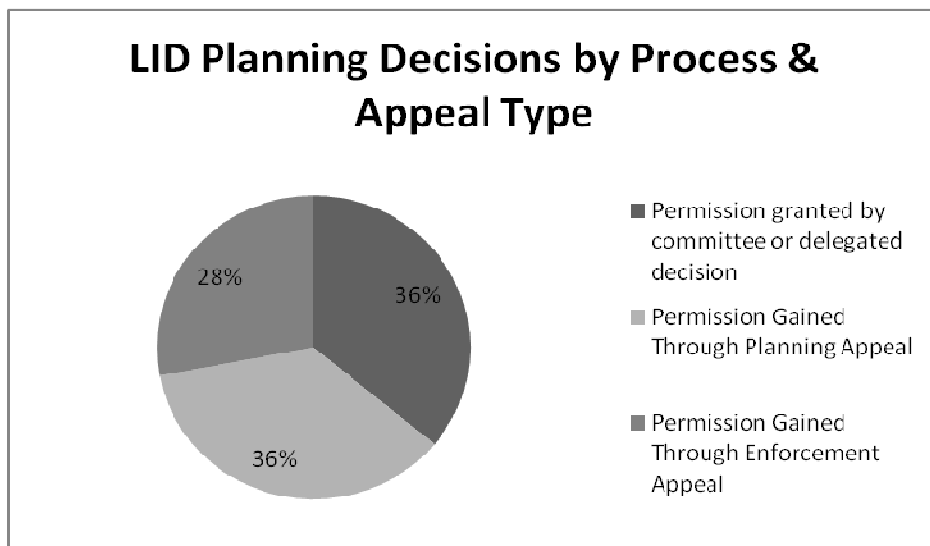


Figure 10.3 Lid Planning Decisions by Process & Appeal Type

Material considerations were explicitly cited by inspectors in 75% of planning and enforcement appeal cases (see figure 10.4). This equates to 48% of all LID cases in the sample.

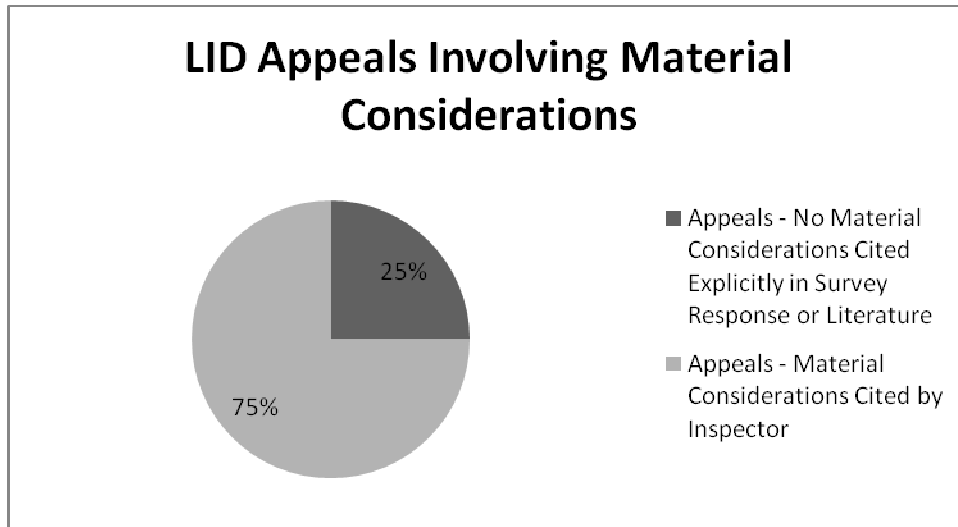


Figure 10.4 Incidence of material considerations being explicitly cited by inspectors.

Given the high incidence of appeals, and the high proportion of those appeals that involved material considerations (a facility that would be removed under the proposals), the data strongly suggest that the null hypothesis is incorrect, and that the changes to appeals would be likely to have detrimental effect on the majority of LIDs’ planning cases.

10.3.3 Hypothesis 3: Retrospective Planning permission

The withdrawal of retrospective planning permission is unlikely to have any effect on LIDs’ prospects of obtaining planning permission.

Retrospective planning permission was used in 68% of cases (see figure 10.5). Again, the data strongly suggest that the null hypothesis is disproved. In fact, the withdrawal of the facility to apply for retrospective permission may have the single biggest impact on LIDs’ strategies in future.

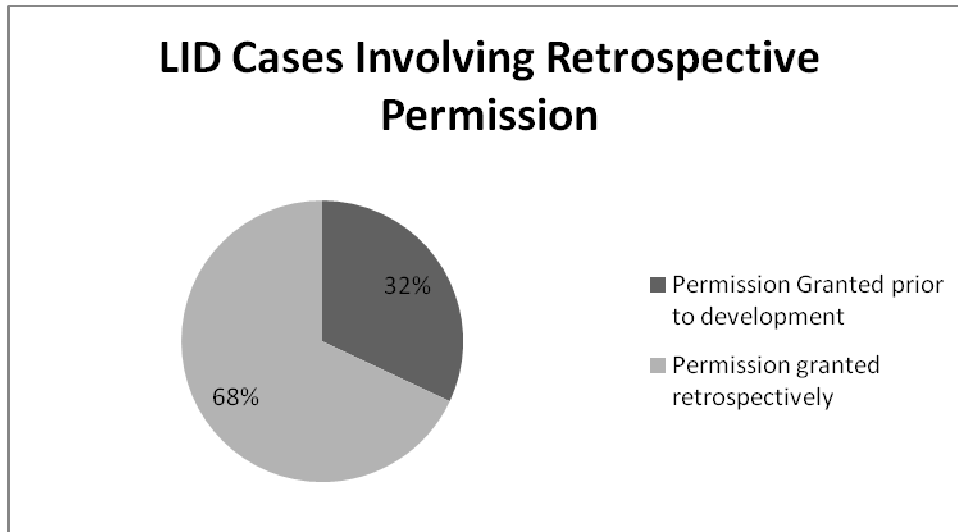


Figure 10.5 Lid Cases Involving Retrospective Planning permission

10.3.4 Hypothesis 4: Certificates of Lawful Use

The tightening of conditions under which Certificates of Lawful Use are issued is unlikely to have any effect on LIDs' prospects of obtaining planning permission.

The strategy of trying to obtain a Certificate of Lawful Use occurred in 8% of the sample (see figure 10.2, above). The hypothesis is disproved in at least 8% of LID cases.

It is worth noting that the number of LIDs who may have been established for some time, waiting for their 10 or 4 years to expire before applying is unknown. Due to the nature of CLUs, these LIDs are likely to be discreet, and therefore difficult to identify and quantify. The actual proportion of LIDs pursuing this strategy may in fact be much higher than 8%.

10.3.5 Hypothesis 5: PPS7 Annex A

The withdrawal of PPS7 Annex A (or equivalent functionality) is unlikely to have any effect on LIDs' prospects of obtaining planning permission.

The percentage of LIDs that reported having used PPS7, Annex A was 24%. This is perhaps lower than would be expected based on the comments of planning consultant 3: *"If Annex A is removed it could be the single biggest blow to LIDs and permaculture projects, because this is the route by which most permission has been obtained"*.

This discrepancy is perhaps due to the fact that the use of Annex A wasn't explicitly listed as the policy instrument used to attain permission in all of the case reports in The Land magazine: i.e. there is missing data. Nevertheless, the hypothesis is disproved for at least a quarter of LIDs.

10.3.6 Gypsies & Travellers

Changes to Gypsy & Traveller policies are unlikely to have any effect on LIDs' prospects of obtaining planning permission.

None of the LIDs in the sample were shown to hold gypsy or travellers status. The hypothesis is not challenged.

10.3.7 Hypothesis 7: Overall

The coalition Government's proposals are unlikely to have any effect on LIDs' prospects of obtaining planning permission in England.

5 of the 6 prior null hypotheses have been disproved to a greater or lesser extent. What is more, 88% of LID cases used one or other of the 'non-standard' policies or procedures to obtain planning permission. See figure 10.6, below. This strongly indicates that the overall null hypothesis is false.

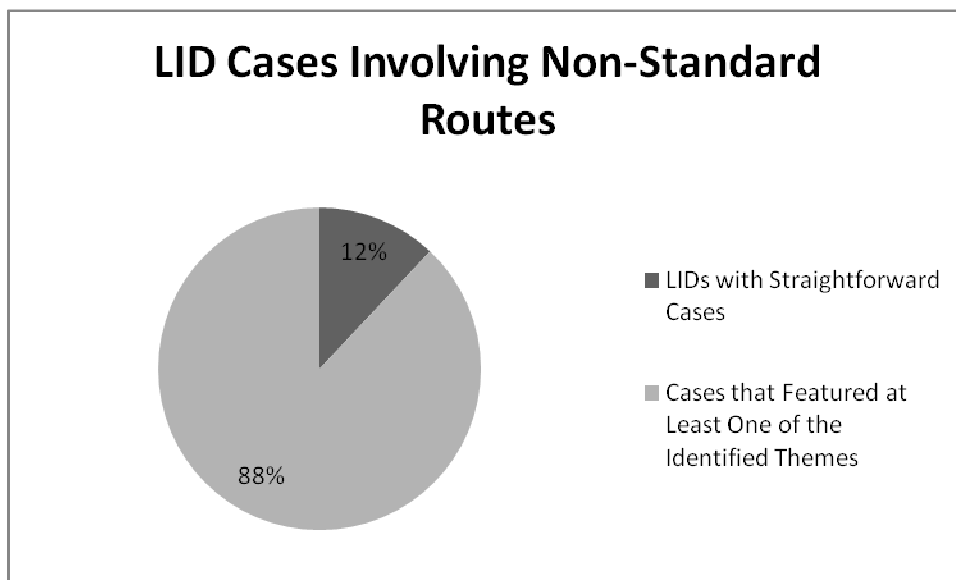


Figure 10.6 LID Cases Involving Non-Standard Routes

Moreover, of the 3 straightforward cases here, Hill Holt Wood exploited another section of PPS7 – paragraph 11 (which states that exceptional examples of architecture may be permitted in open countryside). This policy instrument may also be under threat if the new national planning framework doesn't include a similar facility.

Chapter 11 – Conclusions & Recommendations

11.1 Conclusions

11.1.1 Challenges for LIDs

The proposed changes to the planning system represent a significant challenge to future LIDs in England. The results suggest that the biggest threats to future LIDs' planning cases are likely to be:

1. The proposed removal of retrospective planning permission and;
2. The withdrawal of the power of the Planning Inspectorate to determine appeals based on material considerations.

Added to these threats, the transfer of power to make local plans (and effectively determine development control cases) from qualified but unelected people, to elected but unqualified people – the so-called “Nimby Charter” - as well as the possible loss of PPS7, Annex A could make it almost impossible to obtain planning permission for a LID in rural England.

11.1.2 The Localism Bill

The Localism Bill “allows local authorities in England to decline to determine retrospective planning applications where enforcement action is being taken”. As noted above the removal of the facility to gain retrospective permission is one of the biggest threats to future rural LIDs. As this is currently going through parliament, it is also the most imminent.

11.1.3 National Planning Framework

The National planning framework is currently an unknown quantity. However, the stated aims of the Government suggest that it will lose much of its flexibility and capacity to deliver outcomes based on finely nuanced cases. The possible loss of legislation determining when development can take place in open countryside (PPS7 Annex A) could cause problems for LIDs and a much wider population of rural workers.

11.1.4 Wales

With an unfavourable planning environment in England, and a progressive policy in Wales, (i.e. One Planet Developments and the more relaxed rules around isolated rural dwellings) future Low Impact Developers may simply move to Wales.

11.2 Recommendations

11.2.1 Localism Bill

Interested parties should make use of the opportunity to submit written evidence to the Public Bill Committee scrutinizing the Localism Bill. At the time of writing the deadline for submissions has not been published.

11.2.2 National Planning Framework

As LIDs provide outstanding examples of sustainable living, new national planning policies should make provision for them. DCLG should consider how, at the very least, something similar to Annex A of PPS 7 is retained. Ideally a national LID policy similar to One Planet Development in TAN6 should be included at national level in England.

There is an urgent need for representation to be made to the consultation on the National Planning Framework. This could be compiled by an alliance of interested parties, for example Chapter 7, the Permaculture Association and others.

11.2.3 Local & Neighbourhood Plans

There is a need for a creative, organised response to local & neighbourhood level consultations to ensure that true sustainable development occurs. The Transition movement, for example, is well placed to coordinate such a response. Materials describing how to engage with the collaborative democracy methods and make a positive influence on the outcome could be created. These materials could then be made available to local groups wishing to influence their neighbourhood plans.

11.2.4 LIDs' Strategy

Any prospective low impact developers in England should consider their strategy in the light of the possible changes. At the very least, they should monitor the passage of the localism bill through parliament and the introduction of the proposed national planning framework closely. Possible strategies for LIDs might include a campaign of community engagement to garner support from their local community, or dedicating considerable effort to ensuring their neighbourhood level plans are favourable.

Alternatively LIDs might elect to choose a site depending on whether or not it has a realistic prospect of obtaining planning permission under the new system. It might be more efficient to select a site in a progressive area of the country, or simply move to Wales.

11.3 Limitations of the Study

11.3.1 Rapidly Evolving Study Context

Because the localism bill was published immediately before research started, many of the respondents had had little time to digest & understand implications. It remains unclear what will actually happen in terms of legislation at the time of writing. The difficulty of improving conclusion and construct validity with regard to future events has been discussed elsewhere.

11.3.2 Small Sample of Planning Consultants

External validity would have been improved with a larger sample of planning consultants and a wider range of perspectives. For example, development control officers and planning inspectors that have been involved in LID cases would have been able to provide an interesting perspective.

11.3.3 Unknown Population of LIDs

The size of the total LID population in England & Wales is unknown. Consequently it is difficult to establish exactly how representative the results are. Due to the fact that the larger LIDs tend to be higher profile, it is possible that the results are skewed in favour of larger, community scale LIDs. Single dwellings may be under-represented in this sample.

11.3.4 Unknown Population of LIDs Pursuing CLU Strategy

Due to their need for discretion, the number of LIDs aiming to achieve a certificate of lawful use is unknown. As a result, the likely impact of closing this loophole is unknowable.

11.3.5 Multiple Data Sources

Phase 2 of the study took data from a range of sources. This introduced an additional variable: the quality of the data source. In some cases, such as PPS7 Annex A, it appeared that data was missing. Therefore some issues, such as the extent of the use of PPS7 Annex in cases, or the extent of local opposition cannot be accurately quantified and the results must be treated with some caution.

11.4 Further Work

11.4.1 Revisit Study

It would be useful to conduct another study when the localism bill becomes law and the National Planning Framework has been introduced to assess their impact.

It would also be useful to expand number of planning consultants, conduct a more comprehensive survey of LIDs, and ensure that data collected uses the same method to close gaps in the data.

11.4.2 Comparative Study

It will be particularly interesting to understand the outcome of diverging policy environments of England and Wales. A study that measures the relative incidence of new LIDs in both countries after the Localism bill and National Planning Framework would provide an interesting measure of the impacts of the new policies.

11.4.3 Review of TAN6

Another areas for exploration would be a study of the efficacy of One Planet Development clause in TAN6. Lewinsohn established that Policy 52 has not been problem free, but there has to date only been one test case of TAN6 (TLIO 2010, P64). It would be useful to understand how good a model the OPD policy is, so that any future incorporation of such a policy into the English planning framework could be informed by it.

Appendix A: Planning Documents Schedule

A.1 Principle English National Planning Policy Statement & Guidance Documents

Reference	Full Title
PPS1	Planning Policy Statement 1: Delivering Sustainable Development
PPS2	Planning Policy Statement 2: Green Belts
PPS3	Planning Policy Statement 3: Housing
PPS4	Planning Policy Statement 4: Planning for Sustainable Economic Growth
PPS5	Planning Policy Statement 5: Planning for the Historic Environment
PPS7	Planning Policy Statement 6: Sustainable Development in Rural Areas
PPG8	Planning Policy Guidance 8: Telecommunications
PPS9	Planning Policy Statement 9: Biodiversity and Geological Conservation
PPS10	Planning Policy Statement 10: Planning for Sustainable Waste Management
PPS12	Planning Policy Statement 12: Local Spatial Planning
PPG13	Planning Policy Guidance 13: Transport
PPG14	Planning Policy Guidance 14: Development on Unstable Land
PPG17	Planning Policy Guidance 17: Planning for Open Space, Sport & Recreation
PPG18	Planning Policy Guidance 18: Enforcing Planning Control
PPG19	Planning Policy Guidance 19: Outdoor Advertisement Control
PPG20	Planning Policy Guidance 20: Coastal Planning
PPS22	Planning Policy Statement 22: Renewable Energy
PPS23	Planning Policy Statement 23: Planning and Pollution Control
PPG24	Planning Policy Statement 24: Planning and Noise
PPS25	Planning Policy Statement 25: Development and Flood Risk

A.2 Local Development Framework Documents (England)

Document Name	Function
Development Plan Documents	Details how the local spatial plan will be delivered
Supplementary Planning Documents	Provides additional detail to the DPD
Statement of Community Involvement	Describes how the local community has been engaged in the process of defining the LDF
Local Development Scheme	Determines how the LDF is produced
Annual Monitoring Report	

A.3 Welsh National Planning Documents

Reference	Full Title
	Planning Policy Wales
TAN1	Joint Housing Land Availability Studies
TAN2	Planning and Affordable Housing
TAN3	Simplified Planning Zones
TAN4	Retailing and Town Centres
TAN5	Nature Conservation and Planning
TAN6	Planning for Sustainable Rural Communities
TAN7	Outdoor Advertisement Control
TAN8	Renewable Energy
TAN9	Enforcement of Planning Control
TAN10	Tree Preservation Orders
TAN11	Noise
TAN12	Design
TAN13	Tourism
TAN14	Coastal Planning
TAN15	Development and Flood Risk
TAN16	Sport, Recreation and Open Space
TAN18	Transport
TAN19	Telecommunications
TAN20	The Welsh Language – Unitary Development Plans and Planning Control
TAN21	Waste
TAN22	Sustainable Buildings

Appendix B: Fifteen Criteria for Developments Associated with Sustainable Land-based Rural Activities – Chapter 7

“[1] The project has a management plan which demonstrates:

[a] how the site will contribute significantly towards the occupiers' livelihoods;

[b] how the objectives cited in items 2 to 14 below will be achieved and maintained.

[2] The project provides affordable access to land and/or housing to people in need.

[3] The project provides public access to the countryside, including temporary access such as open-days and educational visits.

[4] The project can demonstrate how it will be integrated into the local economy and community.

[5] The project can demonstrate that no activities pursued on the site shall cause undue nuisance to neighbours or the public.

[6] The project has prepared a strategy for the minimization of motor vehicle use.

[7] The development and any buildings associated with it are appropriately sited in relation to local landscape, natural resources and settlement patterns.

[8] New buildings and dwellings are not visually intrusive nor of a scale disproportionate to the site and the scale of the operation; and are constructed from materials with low embodied energy and environmental impact, and preferably from locally sourced materials, unless environmental considerations or the use of reclaimed materials determine otherwise. Reuse and conversion of existing buildings on the site is carried out as far as practicable in conformity with these criteria.

[9] The project is reversible, insofar as new buildings can be easily dismantled and the land easily restored to its former condition.

[10] The project plans to minimize the creation of waste and to reuse and recycle as much as possible on site.

[11] The project has a strategy for energy conservation and the reduction, over time, of dependence on non-renewable energy sources to a practical minimum.

[12] The project aims over time for the autonomous provision of water, energy and sewage disposal and where it is not already connected to the utilities, shall make no demands upon the existing infrastructure.

[13] Agricultural, forestry and similar land-based activities are carried out according to sustainable principles. Preference will be given to projects which conform to registered organic standards, sustainable forestry standards or recognized permaculture principles.

[14] The project has strategies and programmes for the ecological management of the site, including :

[a] the sustainable management and improvement of soil structure;

[b] the conservation and, where appropriate, the enhancement of semi-natural habitat, taking into account biodiversity, indigenous species, and wildlife corridors;

[c] the efficient use and reuse of water, as well as increasing the water holding capacity of the site;

[d] the planting of trees and hedges, particularly in areas where the tree coverage is less than 20 per cent.

[15] The project can show that affordability and sustainability are secured, for example, by the involvement of a housing association, co-operative, trust or other social body whose continuing interest in the property will ensure control over subsequent changes of ownership and occupation."

(TLIO 1999)

Appendix C: Online Survey

Page 1. Introduction

Thanks for taking the time to respond to this survey. It forms a key part of the research for my MSc thesis, which is looking at the implications of proposed changes to planning policy for Low Impact Developments (LIDs) in rural England & Wales.

Joe Atkinson

1. Name (optional: leave blank if you wish to remain anonymous):

2. Email address (optional: leave blank if you wish to remain anonymous):

3. If you have supplied your email address, may I contact you to follow up on your responses?

Yes

No

Next

Page 2. About your Low Impact Development

The questions on this page are to establish some quantitative data about Low Impact Developments (LIDs) in England & Wales.

1. Name of the Low Impact Development Project (optional, as above)

2. Is your LID in England or Wales?

England

Wales

3. Who is your Local Planning Authority? (Leave blank if you wish your answers to be treated anonymously AND you think this could identify you)

4. Does your Local Planning Authority have a Low Impact Development policy in place?

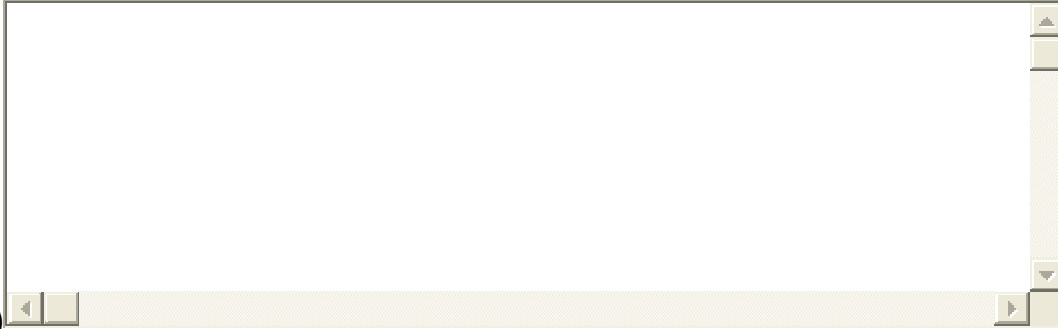
- Yes
- No
- Don't know

5. What is your LID's current planning permission status?

- Permanent permission
- Temporary permission
- Awaiting application decision
- Enforcement notice served, appeal pending
- Stop notice served, appeal pending
- Enforcement or stop notice served, appeal failed
- Facing demolition/eviction
- Planners not aware of site occupation (attempting to obtain certificate of lawful use through 4 or 10 year rule)

Other (please

specify)

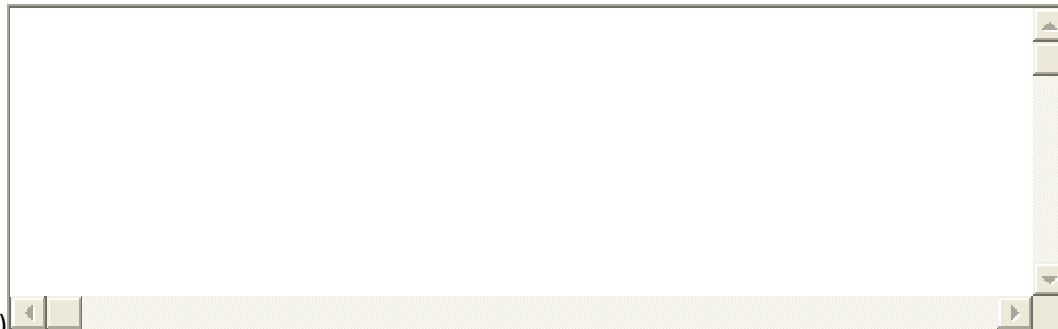


6. If you have planning permission, what was the reason for your successful application/appeal?

- Met functional need & financial tests in Annex A of Planning Policy Guidance 7
- Met Local LID Policy (e.g. Policy 52 in Pembrokeshire)
- Met National LID Policy (i.e. "One Plant Developments" policy in Wales' Technical Advice Note 6)
- Other material considerations

Other (please

explain)



7. If you have planning permission, which of the following best describe the process you went through?

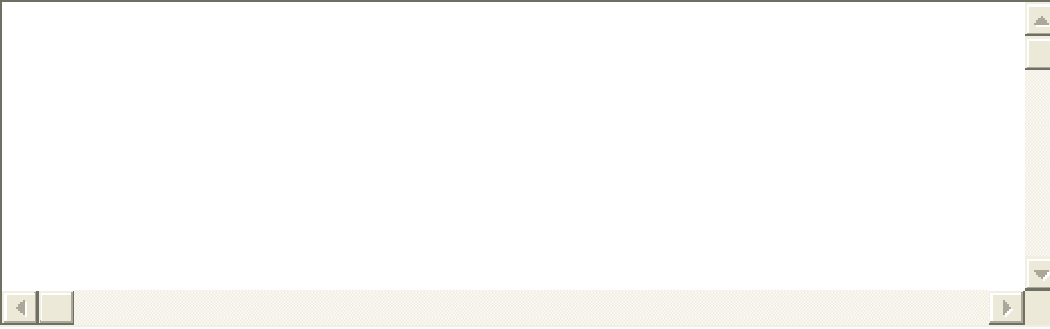
- Initial application successful
- Initial application unsuccessful, appeal successful
- Enforced against, enforcement appeal successful
- Initial application unsuccessful, appeal unsuccessful, High Court, Court of Appeal, House of Lords or

European Court appeal successful

- Initial application unsuccessful, appeal unsuccessful but overturned by secretary of state.

Other (please

specify)



8. Was your application/appeal retrospective?

- Yes

- No

9. If local people in your area had more power over planning applications, would obtaining planning permission have been:

- Easier?

- Harder?

- About the same (or not sure)?

10. Do you have Gypsy or traveller status?

- Yes

- No

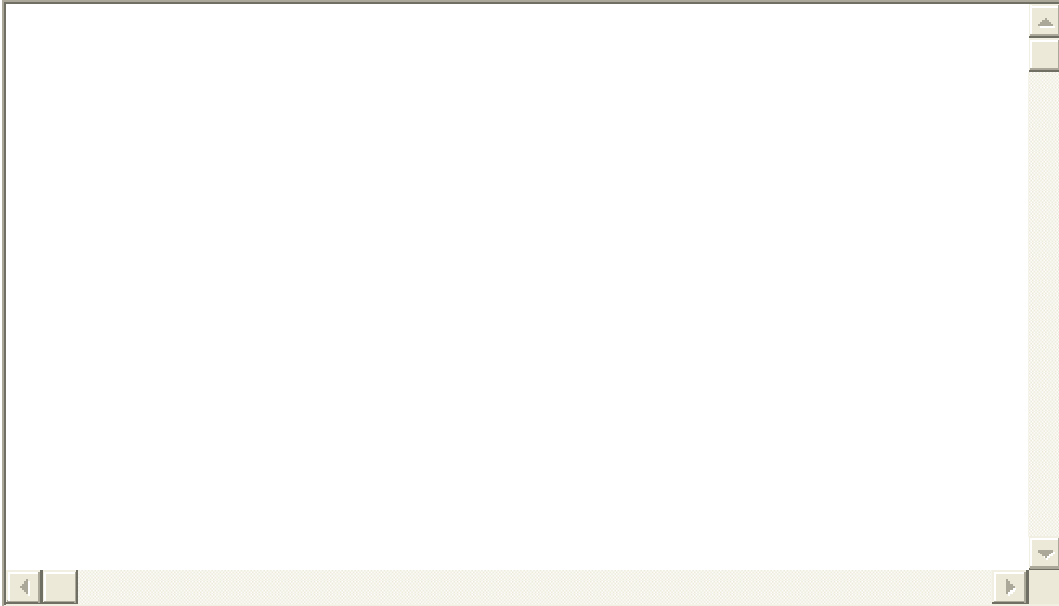
Prev

Next

Page 3. Your views about planning policy & process

This page gives you the opportunity to say more about any of your answers or make additional points.

1. Please use this space to say more about your planning case or raise any other points



Prev Next

Page 4. Thanks!

Thank you for your time!

Prev Done

Appendix D: List of Appeal References & Media Reports

The following is a list of LID appeal references that were used for phase 2 of the research.

Fivepenny Farm: APP/F1230/A/04/1159852, APP/F1230/C/04/1162420, 21, 22, 25

Landmatters: APP/K1128/A/06/2018778, 2032148, APP/K1128/C/07/2039820

Lammas: APP/N6845/A/09/2096782

Karuna: APP/B3220/C/07/2060815, 2060816, APP/B3220/C/08/2063851, 2063852

Quicken Wood: APP/C1435/C/03/1114412, 1114361, 1114413, 1114425, 1114426

Steward Community Woodland: APP/J9497/C/01/1067412

Planning case reports were used from the following publications:

The Land, issues 1 – 9

Back issues of *The Land* are available online at: <http://www.thelandmagazine.org.uk/issues>

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