‘Between a rock and a hard place’: planning reform, localism and the role of the Planning Inspectorate in England

Martin Boddy and Hannah Hickman

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England, like many European countries, saw the emergence in the late 1990s and early 21st century of a strategic framework of spatial plans at a regional scale (Roodbol-Mekkes and Van den Brink, 2015). Radical reform of English land-use planning in the *Localism Act*, 2011 (UK Parliament 2011), and the new *National Planning Policy Framework* (DCLG, 2012) however had fundamental implications for this national planning framework. Previously there had been intermediate, regional level plans between central government and local councils, extensive ‘planning guidance’ documents and top-down targets for planned levels of new housebuilding at a local level. Planning reform saw this whole strategic layer stripped out, existing planning guidance removed, and the end of ‘top-down’ housebuilding targets. Responsibility was now placed instead on local councils to prepare local development plans, including a fundamental requirement to produce estimates of future housing need (Boddy and Hickman, 2013; Gallent et al 2013; Allmendinger and Haughton, 2012; Ayres and Pearce, 2012). Abolition however, according to the UK House of Commons, Housing and Communities Committee (HC, 2011), left a ‘vacuum’ at the heart of the national land-use planning system’.

These changes, we argue here, had particularly significant and ongoing implications for the work of the English Planning Inspectorate, the body whose key functions include the approval of local development plans and adjudicating on appeals against refusal of individual applications for planning permission by local councils. Playing a fundamental role in the national planning system, the Inspectorate had previously operated largely in the background. The planning reforms just described, however, left the Inspectorate exposed to the pressures and tensions inherent in the processes of land-use planning to a wholly unprecedented extent – pressures and tensions which prior to this had been mediated by and managed through regional-level plans, and planning guidance. This was particularly the case in relation to targets for new housebuilding on which we focus here.

Focusing in particular on the new responsibility for local councils to establish planned levels of future housing need, we conclude that planning reform has impacted on the role of the Inspectorate in two main ways. First, their work has been subject to increasingly high-profile legal challenges from elected local councils and developers; second inspectors have operated in a much more politicised context, subject to an unprecedented degree of overt scrutiny and criticism. These unprecedented challenges are, we argue, a direct result of the vacuum left by the abolition of regional strategic planning and related reforms in which the tensions and ambiguities inherent in the new National Planning Policy Framework have subsequently been played out. Together these challenges represented a significant threat to the long-established quasi-judicial independence of the planning inspectorate in the context of the national planning system.

The Study

Here we first discuss conceptual approaches to localism and the implications for understanding planning practice. Second, we describe the role of the Planning Inspectorate in the new national planning system. Third, we focus on the requirement, as set out in the new National Planning Policy Framework, that local councils establish the 'objectively assessed' level of housing need for their local area. We then present empirical material in the form of relevant legal cases together with interview material and other evidence of the political pressures which have been brought to bear on the Inspectorate. Finally, we discuss the implications of our findings for the planning inspectorate itself, for our understanding of planning in the context of localism and, lastly, possible future developments.

The study drew on interviews with thirty-five elite and professional respondents[1] mainly conducted over the period July 2014 to March 2015. Respondents included practitioners in and close to the Inspectorate itself (including current and former planning inspectors and civil servants), solicitors and barristers, planning consultants, senior local council planning officers and representatives of key national professional organisations. Legal cases referred to relate mainly to this same period. Semi-structured interviews were conducted face to face using a topic guide. Interview transcripts and contemporaneous notes were coded and detailed thematic analysis undertaken using NVIVO qualitative analysis software. The value of elite interviews is highly dependent on the ability of researcher to gain the trust and establish a rapport with the interviewee, (Dexter 2006, Harvey, 2011). We benefited in this study from the possibly unique access and insights afforded to the researchers by this particular set of respondents.[2] The seniority of those interviewed and potential political sensitivity of the material meant that, as a condition of consent, all interviews were conducted on the basis of full confidentiality and anonymity (Harvey 2011). This limits the extent to which quoted material can be attributed to individuals, roles or organisations. The study also drew on a wide range of documents related to development plan enquiries and legal cases along with government policy documents and parliamentary records.

Localism and planning reform

There is a long history of planning reform in the post-war period across much of Europe. In many countries across Europe, the 1990s and early years of the 21st century, however, saw a fundamental 'rescaling' of the planning system as a whole (Allmendinger, 2003; Tewdwr-Jones et al, 2006; Nadin, 2007; Vigar, 2009; Allmendinger and Haughton, 2013). Rescaling, according to Roodbol-Mekkes and van den Brink, 2015, 185) represented 'the redistribution of powers and responsibilities between the various tiers of government and the rise and fall of the various tiers in spatial planning'. This saw an increasing emphasis on regional level bodies with a strategic and integrative role, including, in England, statutory Regional Spatial Strategies (RSS). They go on to argue, however, that in several countries this first wave of rescaling proved relatively short-lived. Subsequent reform saw a second wave of rescaling impacting across a range of national planning systems, with Denmark, the Netherlands and England as particular examples which, they argue, saw the role of spatial planning

[1] Elite in the sense of occupying senior and in some cases specific if not unique roles within their organisations (Harvey, 2011)

[2] One of the researchers had previously held senior roles in planning and governance at a regional level. This afforded a level of credibility and trust which greatly facilitated access. This operated, however, in generic terms in that the majority of respondents were not actually known to the researchers in a personal or professional capacity.

diminished or side-lined, with an increasing emphasis on the local level. England, however, saw the most complete rolling back of the regional tier with the abolition of RSS, regional guidance and top down development targets. As noted by Haughton and Allmendinger (2013) and Waterhout et al (2013) England has typically seen more frequent and more dramatic changes than on mainland Europe and is therefore significant in the wider European context to an understanding of shifts in planning systems and their implications (see also Mawson and McGuinness (2017).

In the case of England, this second wave of rescaling and planning reform was at the heart of the government's 'localism' agenda set out in the 2011 *Localism Act* and the new National Planning Policy Framework (NPPF). As the government minister at the time put it: 'We want to take power out of the hands of lawyers and bureaucrats and put it back in the hands of local people' (Pickles, 2011). According to the NPPF 'power should be exercised at the lowest practical level – close to the people who are affected by decisions' (DCLG, 2012). Prior to 2010, planning under the New Labour government included a framework of intermediate-scale, strategic plans, top-down housing targets informed by an independent 'expert group'[3] , and extensive, detailed national planning guidance. Local councils were required to put in place local development plans, approved by planning inspectors following consultation and a local plan inquiry. Planning reform under the Coalition Government in 2010 rapidly removed this whole apparatus of strategic plans, targets and guidelines. The new NPPF was to be a 'plan-led' system based on development plans prepared by local councils which would also now, themselves, determine levels of future housing need at a local level. There were, for the first time, to be statutory neighbourhood plans. There was also a 'Duty to Co-operate' placed on local councils to address cross-boundary issues with their neighbours.

There was a swift reaction to reform from many local councils, especially across parts of southern England where pressures for growth were high and where there was strong opposition from local communities and voters to further development. This saw many largely Conservative-controlled councils to reduce significantly, planned levels of new housebuilding (Tetlow King Planning, 2012; Boddy and Hickman, 2013). Tensions were immediately apparent in the new framework, however, which also set out a 'presumption in favour of sustainable development … a golden thread running through both plan-making and decision-taking.' (CLG, 2012, para 14) or as the ministerial foreword more bluntly put it 'Development means growth'. This was widely seen by as a 'developer's charter' directly opposed to the principles of localism.

The Conservative-led national government faced the problem of, on the one hand, pursuing objectives of economic growth and necessary provision for employment, housing and infrastructure whilst, on the other, meeting and managing the expectations of their own Conservative members of parliament and local councillors – many of whom represented areas opposed to housing development and were seeking to maintain the support of the local electorate. As Tait and Inch (2016) observe, the early rhetoric of what they term 'Big Society' localism was rapidly eclipsed by this contradiction between traditional conservatism captured in the idea of 'One-nation' localism and what they term 'Growth' localism (based in neo-liberal perspectives of deregulation and development): 'In the case of planning reform the agenda revolved around the tension between 'how best to protect the shire county vision of an imagined Ambridge and the view of places as a

[3] The National Planning and Housing Advisory Unit

competitive asset (ibid, 190)'.[4] Baker and Wong (2013, 97) , were quick to observe that 'The Coalition government's fixation on a more localized approach to planning may, ironically, necessitate further centralization by Whitehall through more stringent guidance to bridge the growing institutional gap of coordinating major spatial development strategies'. For them, the latest planning reforms are strongly de-regulatory, and anti-bureaucratic, represented by the 'subliminal development-oriented economic imperatives within the NPPF' and 'a strong central drive to deregulate planning to facilitate growth' (Mawson and McGuinness, 2017, 294). Lees and Sheppard (2015, 12), similarly, identify the incoherence and incompatability at the heart of core aspects of the new planning framework exposed in a legal context:

> Underlying disagreements are concealed by policy statements referring to balance and reasonableness. But when such policy must be considered in a judicial fora, becoming in the process justiciable and therefore crystallised into law, incoherence re-emerges.

Reform has seen 're-scaling' combined with an evolving neo-liberal trend which Tate and Inch (2016, 177) characterised as a 'further evolution of the neoliberal problematization of land-use regulation. (ibid, 2)' Roodbol-Mekkes and Van den Brink (2015), similarly, see the latest reforms as part of a growing neo-liberal thread to planning. It is, they suggest, symptomatic of a wider tendency towards the downgrading of strategic spatial planning across many north-western European countries, with neo-liberal 'development-oriented' agendas prioritising economic growth … becoming the default-position (ibid 286) – a view also supported by Waterhout et al (2013).

There is now a broad and varied literature on the 'localist turn' in planning in both conceptual and empirical terms (Allmendinger and Haughton, 2012, 2013; Baker and Wong 2013; Lord & Tewdwr-Jones, 2014; Davoudi and Madanipour, 2015; Tait and Inch, 2016). Hildreth (2011, 704) presents the idea, useful in the current context, of 'conditional localism', representing:

> … commitment by the centre to decentralize that is conditional on the more local body supporting the centre's national policy objective and/or performance priorities and standards … priorities such as meeting housing building targets … driven as much by the demands of the centre as by the aspiration to serve its communities.

Clarke and Cochrane (2014, 17) defining localism as a form of 'spatial liberalism' argue, similarly, that: 'it is neither appropriate to measure localism against some absolute decentralisation, nor to dismiss it for being ideological cover regarding some project of complete centralisation'. Localism involves devolving power, liberating localities to act but in what they term a 'rational and responsible' manner, and encouraging such actions by 'governing at a distance', reasserting or enforcing such actions through centralisation where deemed necessary (ibid, 13):

> Approaching localism in this way we are encouraged to look beyond simple dismissals of localism as centralism in disguise, towards different visions of rational and responsible local actors, and technologies for producing and regulating such actors … good local conduct as that which , for the most part responds in tailored ways to perceived local needs (ibid, 14)

[4] Ambridge referring to the fictional rural community portrayed in a long-running series on national radio.

Here, as Clarke and Cochrane (2013, 13) observe: 'decentralisation appears conditional on local government behaving "responsibly" and meeting the expectations of Ministers regarding conduct'. Williams et al (2014, 2801) similarly refer to 'Technologies of agency that regulate actors into rationality and responsibility through manipulating the architecture of choice available to local government'. Davoudi and Madanipour (2015,4) refer to an 'emerging top-down localism as a spatial manifestation of post-social technologies of liberalism in which local areas would 'bear consequences of their own actions, yet in such a way that their action aligns with government ends'. For Mawson and McGuiness (2017), 're-scaling downwards also included some muscular centralising initiatives to counterbalance parochial political tendencies' (288). Tait and Inch (2016) similarly identify the emergence more recently of a third phase of more 'muscular' localism as central government has increasingly sought to address issues of housing delivery and manage local opposition to development seen by Mawson and McGuinness (2017, 294) as 'a strong central drive to deregulate planning to facilitate growth'. Throughout, the Planning Inspectorate has been central to the way in which 'conditional localism' has played out in practical terms, as we go on to describe in the next section.

The role of the Planning Inspectorate

In presenting original research on the Planning Inspectorate we address a major gap in planning research (Mualam, 2014). Grant (2000) provided a detailed account of the role and structure of the inspectorate. Sheppard and Ritchie (2016) more recently present a comparative study of England and Northern Ireland. Other than this there has been little original work in this area of planning research. The significance of the study stems from the fact that the Planning Inspectorate represents 'a microcosm of the land-use planning system' reflecting 'many of its competing positions and underlying conflicts of interest' Cullingworth and Nadin (2014, 515). It is where 'the clash of planning ideologies and indeed societal values, is most easily seen' (ibid). For Shepley (2012, 1) the Inspectorate is 'the glue that holds planning together'. The study's wider, international, significance is that the Planning Inspectorate exemplifies 'the international phenomenon of appeals tribunals' with a 'world-wide significance' in addressing 'conflicts involving land-use, development applications, subdivisions, zoning and ordinance amendments' (Mualam, 2014, 1). In research terms such appeals tribunals, including the Inspectorate, 'provide a unique opportunity to study how land use and development law works' (ibid, 2). The Planning Inspectorate stands out in an international context for the fact that it 'enables the state to exert control over a variety of conflicts … presiding over the entire process of local plan preparation' (ibid) – suggesting its key role in the context of localism, as part of the technology of regulation and 'governing at a distance'.

The Planning Inspectorate is an 'Executive Agency' of government, separate in managerial terms but accountable to the Minister and ultimately subject to their control. Its status traditionally, however, has been that of a quasi-judicial, semi-independent body, taking decisions and providing recommendations to Government, based on the weight of evidence and argument (Barker and Couper, 1984). It operates under a code of 'openness, fairness and impartiality', and has long been perceived as one step removed from immediate political pressures: 'In law, each Inspector is a quasi-judicial and independent tribunal, whose decisions must take account of all evidence put to them as well as local and national planning policy' (Pitt, 2013, 1). Such decisions are subject to challenge in the High

Court over procedural or legal issues. Inspectors have traditionally, however, operated in practice with a wide degree of discretion.

The Inspectorate's core functions include the approval of local development plans submitted by elected local councils following examination, and deciding on appeals against the refusal of planning permission by a local council. In the case of appeals, they are acting on behalf of the government minister. On local plans they act independently.[5] The relevant government minister also has the power to 'recover' an appeal and make the decision themselves, drawing on but potentially over-riding the advice of the inspector.

These core functions are as such unchanged under the new Framework. The terrain within which the Inspectorate is operating is however now very different following the radical reform and rescaling of the national planning system. Inspectors are now required to make their assessments of development plans and planning appeals in the absence of any overarching strategic planning framework, detailed planning guidance or top-down determination of housing numbers. In relation to plans, a core requirement is that a local plan has been 'positively prepared and consistent with national policy as set out in the NPPF' (CLG, 2012 para 182). Critically, for the purpose of this study, a plan must be: 'based on a strategy which seeks to meet objectively assessed development and infrastructure requirements' (ibid). Inspectors are in effect performing a wholly new function - that of assessing the extent to which local councils meet the expectations of Government in terms of future provision for new housing development, to which we now turn.

Objectively assessed housing need

This study focused on the requirement under the National Planning Policy Framework (NPPF) that local councils are now themselves required to determine levels of future housing need – objectively assessed housing need - and to base local development plans on these targets:

> 'to boost significantly the supply of housing local authorities should … use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area' (NPPF 2012, para 47).

Under the NPPF, councils prepare a 'Strategic Housing Market Assessment' (SHMA) in order to establish future levels of housing need based on demographic forecasts and other factors – which in turn translates into amount of land needed to meet future housing need. This is at one level a 'technical' exercise, but it lies at the heart of the local development plan process, and has been a highly politicised focal point for conflict and contestation between, in particular, land-owners and developers, local councils and local communities.

The new planning framework was launched in 2012 with nothing initially in the way of additional guidance to replace the bonfire of existing planning guidance and policy statements. A web-based resource introduced by the government in 2014 (DCLG, 2014a) included guidance on establishing future levels of new housing needed at a local level and therefore potentially filled what had been an important gap, although the guidance itself acknowledged that 'Establishing future need for housing is not an exact science. No single

[5] Since 1968, Planning inspectors have been responsible for making final decisions on appeals on behalf of the Secretary of State (subject to any legal considerations), acting as an independent tribunal. On local plans, inspectors are appointed by the Secretary of State, but act independently, making recommendations to local authorities as to whether prospective local plans are 'sound' and should be adopted.

approach will provide a definitive answer' (DCLG, 2014a, para 014). Starting with demographic projections of numbers of households it also required local councils to calculate the degree of uplift in numbers required in response to 'market signals' including house prices, rents and housing affordability with a series of choices and assumptions, fundamentally challenging the notion that an 'objective' position would be attainable. It was then left to the planning inspectorate to decide on whether estimates included in draft development plans represented a 'reasonable' level of uplift. This they attempted to do in a succession of cases, with a number of relatively arbitrary figures then being quoted subsequently as providing a precedent (Peter Brett Associates, 2015) – a clear case of more active 'policy-shaping' by the inspectorate.

Future levels of housing need are a particularly relevant focus for research given the extent to which they have been contested both at local plan inquiries and in the courts (Planning Advisory Service, 2014). This has been identified as a major factor slowing down the preparation of local plans, through plans being suspended or withdrawn for failing adequately to identify levels of future housing need (NLP, 2015). It has also been a major focus for planning inspectors when examining local plans and provides a key test of the implications of the NPPF and the loss of RSS for the role of the Planning Inspectorate - for a number of reasons. First, in the absence of top-down targets councils now have direct responsibility for establishing proposed housing numbers and doing so to the satisfaction of the planning inspector. This places inspectors at the sharp end of decision-making, potentially challenging evidence put up by elected local councils, and others. Second, targets for new housebuilding were increasingly at the heart of government concerns over housing supply, house prices and economic growth reflecting the growing dominance of neo-liberalism and as the shift from big society and one-nation localism towards a more growth-focused, more 'muscular' localism referred to earlier. Third, definitions and evidence around 'objectively assessed need' are based on a range of contestable assumptions, in particular around the level of 'uplift' required to take account of 'market signals'. This represents a particular challenge for planning inspectors who may be called on to adjudicate over alternative versions of the truth. Finally, in terms of localism, to which we return later, objectively assessed housing need represents a specific form of what Clarke and Cochrane (2013, 14) refer to as 'perceived local needs' and a very relevant test, therefore of what they define as 'good local conduct' on the part of local councils. The case studies and analysis presented next focus, first, on legal challenges to the Inspectorate around the assessment of future housing need and, second, the increasingly politicised context in which the work of the Inspectorate has been played out.

Legal challenge

We go on here to explore ways in which the objective assessment of future housing need has played out in practical terms in five legal case-studies identified by interviewees as particularly significant and involving individual councils. Each is specific to local circumstances but also has much broader implications in legal and policy terms.

First, in the case of North Somerset Council, a legal challenge by a landowner led to a high court ruling that the planning inspector charged with assessing the local development plan, had 'failed to give adequate or intelligible reasons' for his conclusions.[6] The plan as originally submitted for examination by the Planning Inspectorate in 2011 included a target

[6] University of Bristol v North Somerset Council, QB [2013] EWHC 231 (Admin)

of 14,000 housing completions by 2026 based on evidence commissioned by the local council from a private consultant. This figure was nearly 50% less than the previous 'top-down' target for the area. The planning inspector concluded that the Local Plan with its revised housing target was acceptable but in a legal challenge by a landowner this decision was overturned by the court. The plan was then sent for re-examination under a different planning inspector in what the local Conservative Member of Parliament termed, 'a total fiasco around housing needs in North Somerset' (Liam Fox, MP, recorded in Hansard 2014a). In 2015, however, the local council wrote to the Government Minister, shortly before the upcoming national and local government elections, asking that the Minister intervene and himself decide what the housing target should be. The Minister agreed to this unprecedented step, by-passing the Planning Inspectorate under previously unused legislation.[7] The Minister said that the local plan had:

> undergone a complex and protracted examination at a time of transition in national planning policy … I wish to review and consider the inspector's conclusions … to ensure national policy has been applied and reflected correctly. I wish to ensure that there is maximum clarity (see Agbonlahor, 2015).

After considerable delay and the return of a Government with a Conservative majority, the Minister conceded the case in line with the second inspector's recommendation of a pragmatic increase in the council's proposed housing target pending completion of a city-region scale joint spatial plan.[8] In what was described as an 'intensely political period for the Planning Inspectorate', one interviewee commented: 'OAN is a completely different scenario for inspectors. We are starting from scratch – we were in an invidious position having to effectively assess needs ourselves. There are huge gaps about what you can actually do without guidance'. Another observed that:

> You no longer have development needs assessed at a regional level, local authorities do their own assessment of their needs and … evidence that is being produced is very often very uncomfortable for local politicians and they don't like it. So they try to manipulate it in a way that suits their political stance.

Second, in the case of Blaby District, an inspector was faced with two alternative assessments of 'objectively assessed' housing need, one produced by the local council and the other by the developer. He noted that:

> In this case new evidence is available in the form of two Strategic Housing Market Assessments (SHMAs) that have recently been prepared respectively on behalf of the applicant and the Leicestershire planning authorities. These SHMAs have both been produced by independent planning consultants, at broadly the same time and both cover the same [area] and the same period … and both state that they have been prepared following the advice of the recently-published PPG (Planning Inspectorate, 2014, para 23)[9].

[7] Section 21 of the Planning and Compulsory Purchase Act, 2004 allows the Secretary of State to direct that a development plan or any part of it is submitted to them for approval. During 2015, the Maldon Local Plan was also called in for determination by the Secretary of State.

[8] Being prepared jointly by the four constituent local councils.

[9] Referring to National Planning Guidance, DCLG (2014a)

He observed that: 'It is therefore surprising, and a matter of considerable concern, that they come to radically different conclusions' (ibid, para 24): that produced by the planning authorities suggested the need for new housing at 3,775 to 4,215 new dwellings per annum, that for the applicant suggested 7,082. This he considered: 'amply serves to illustrate … that establishing future need is not an exact science and he concluded that:

> The disparity of their output suggests strongly that certainly one, or conceivably both of the assessments will be significantly in error, but the evidence before me does not allow me to reach a definitive conclusion … consequently I am unable to accord to either any significant weight in the determination of this application, (ibid, 26 -28).

The inspector was clearly unwilling in this case to, himself, assess the merits of the competing estimates of future need or to weigh up the competing evidence. One interviewee commented:

> that's a big problem … the inspector has to make a judgment on which case he or she prefers and give a reason for why they prefer it, really difficult. One of the areas we saw as particularly problematic with means testing the evidence on the numbers.

In the absence of top-down targets or more detailed guidance, inspectors were faced with distinguishing between competing versions of the truth in the form of alternative 'objective' needs assessments.

Third, in Tewksbury[10], the local council challenged the decision of the inspector to grant permission for 1,000 homes. The inspector had taken account of the fact that there was no up-to-date local plan in place. The Judge noted the council's argument that there is a 'fundamental requirement for the Council, post the Localism Act 2011, to be in the driving seat of spatial planning for its area, including housing land provision' (1) and the proposition that the Localism Act, 2011, and the policy which it embodied, had 'brought about a sea change in the proper approach to planning decisions which require much greater priority than hitherto to be given to the view of local planning authorities' (ibid). Rejecting this view and by implication endorsing the decision of the inspector, Mr Justice Males concluded that 'in my judgement it is inconceivable that any such change was intended to be brought about by the policy statements which accompanied the Act' (69). In this case, the role of the inspectorate was backed by a legal judgement. As one interviewee observed: 'there are inherent tensions between localism and the uplift in housing supply exemplified by the Tewkesbury case. This has changed the position in which inspectors find themselves in'.

Fourth, in the landmark case of Solihull[11] the local plan put forward by the Council had been approved by the planning inspector. The developers challenged this on the grounds that it was not supported by an objectively assessed figure for housing need. Finding in favour of Gallagher Estates the Judge identified a 'substantive error' in the Inspector's decision and 'a failure to grapple with the issue of full objectively assessed housing need, with which the NPPF required him, in some way, to deal' (76). In a significant break with past practice this was a clear case of legal judgement setting down a principle of policy and over-ruling the interpretation offered by the inspector. As one interviewee observed, 'as soon as we get a judgement which is slightly different from what everybody thought it should be that then becomes a new policy, the views of the court adapt policy'.

[10] Tewkesbury BC v Secretary of State for Communities & Local Government [2013] EWHC 286 (Admin)
[11] Gallagher Estates Ltd v Solihull MBC [2014] EWHC 1283 (Admin)

The Solihull judgement was seen as providing 'a real arrow in the quiver for house-builders' (Simon, in Geogehegan, 2014). It was seen by a number of interviewees as a 'game-changer' for the inspectorate in terms of the scrutiny of individual decisions, highlighting the acute nature of the inter-relationship between the courts and the inspectorate and the potential implications of this. The Solihull inspector – described by a Planning Inspectorate insider as a 'hardened, experienced inspector' was reported to have 'found that judgement quite difficult'. According to one respondent: 'The threat of the courts is a very clear disciplining factor and the courts have got more bite when you've got new policy.'

Finally, the inspector's judgement was again challenged in the case of Dacorum Council[12]. Here the Inspector concluded that the housing requirement in the Council's submitted plan did not meet objectively assessed housing need. Rather than finding the plan unsound however, he accepted that provision for an early review of planned housing numbers, already under way, coupled with oversupply relative to housing need in the early years of the plan period enabled the plan to be found sound, a decision he considered to be 'pragmatic, rational and justified' (Planning Inspectorate 2013, 30). The developer, however, took the Inspectorate to court arguing that they had not understood government policy and that commitment to an early review could not rationally make an unsound plan sound. The Judge, however, agreed with the inspectorate concluding that 'the inspector clearly had regard to and understood government policy for plan-making in the NPPF [and] with that policy in mind he took a pragmatic view' (54). One interviewee observed more generally that:

> Pragmatism … was the only practical approach to get plans moving – we couldn't get perfect plans. This is all we can do. QCs will say the same – it's all that can be done given the contradictions between OAN and localism. It was a practical response to keep things moving

Interviewees expressed 'relief' that the Judge had upheld the view of the Inspector in this case, suggesting that if it had gone the other way it would have been 'a real challenge to the work of the Planning Inspectorate.' Following the Solihull case where the court found against the inspector, this decision was seen as important to the credibility of the Inspectorate. In a more recent case which reached the Supreme Court, [13] the highest court in the land, the Court endorsed the role of the planning inspectorate stating that 'the courts should respect the expertise of the specialist planning inspectors, and start at least from the presumption that they will have understood the policy framework correctly' and observed that their role is 'in some ways analogous to that of expert tribunals' [para 25].

To summarise, these cases clearly demonstrate that the Inspectorate has been increasingly subject to legal challenge in relation to local housing numbers, exposing individual inspectors to very public scrutiny and potential criticism of their professional judgement. In reviewing relevant case law, No 5 Chambers described this as: 'a highly complex, fast-moving and litigious area' with appeal decisions - and with them scrutiny of judgements made by inspectors - 'emerging each month' (Planning Advisory Service, 2014, 2). Respondents also noted that it was the wider significance and the policy implications of individual cases that was of particular note. Inspectors have been challenged both by local councils (as in the case of Tewkesbury) and by developers (in North Somerset, Solihull and

[12] Grand Union Investments v Dacorum Borough Council [2014] EWHC [1894] (Admin).

[13] In the case of Suffolk Coastal District Council v Hopkins Homes Ltd and another Richborough Estates Partnership LLP and another v Cheshire East Borough Council, Judgement Given On 10 May 2017

Dacorum) with the Judge in the Solihull bluntly pointing to 'substantive error' and a 'failure to grapple with the issue' on the part of the inspector. Planning reform, as argued earlier, left the Planning Inspectorate increasingly exposed to the tensions inherent in a 'rescaled' national planning system operating as they were in the space between national and local governments. Increasingly high profile legal challenge then added a new layer of complexity. In cases focused on housing numbers judges were increasingly involved in the processes of adjudicating between localism the presumption in favour of development - managing the tensions inherent in the NPPF. Inspectors reported being increasingly aware of the possibility of legal challenge and feeling increasingly exposed - whilst at times, ironically, hoping for a legal challenge that might at least give some greater degree of certainty. From the perspective of localism, the courts and legal proceedings were themselves increasingly integral, along with the Inspectorate, to the management of conditional localism. In Clarke and Cochrane's terms, we see them increasingly involved as the technologies for producing and regulating local actors and determining the architecture of choice. Successive judgements can be seen as part of the process of negotiating the tensions between, in Tait and Inch's terms, 'one-nation' localism and more centrally driven, development oriented, 'growth' localism.

Political challenge

Operating, as noted earlier in the context of conflicts of interest and competing values, the role of and functioning of the Planning Inspectorate has historically seen challenge and debate. Respondents, however, reported the level of political pressure focused both on individual cases and on the role of the inspectorate more generally as unprecedented. This included ministers seeking to 'clarify' government policy but also more blatant challenge from individual Members of Parliament.

Ministerial 'clarification'

Following the new NPPF there was an unprecedented level of ministerial intervention seeking to 'clarify' policy and to 'guide' the inspectorate. One minister reported to Parliament that: 'I went to speak to the inspectorate the morning after we published the NPPF, and I made it very clear that the framework is a localist document which it is to respect.' (Hansard, 2012, Column 916). As one interviewee observed: 'there is real uncertainty of support in the hierarchy for PINS alongside the downgrading of planning'. The Inspectorate itself in its 2014-15 Annual Report identified as 'a key strategic risk' that:

> The increased political focus on England planning casework decisions results in an increased criticism of inspectors decisions and adversely impacts on reputation with Ministers, politicians, communities and developers (Planning Inspectorate 2015, 40).

Interviewees indicated that there had been heightened levels of contact between the Inspectorate and their host department, the Department for Communities and Local Government, on both policy and outcomes.[14] Another interviewee observed:

> I think the biggest challenge is ensuring the impartiality of the inspectorate maintaining an appropriate distance between the work of inspectors who individually are independent decision makers from the influence of politicians who

[14] A former inspector also commented: 'of course the Inspectorate briefs DCLG on each examination's progress and problems throughout the process' (Vickery, 2015, 539).

> sometimes often were not sympathetic to some of the decisions that the inspectorate had to make.

In one, of a number of examples of ministerial intervention the Minister for Housing and Planning, wrote to the Chief Planning Inspector 'to ensure our existing policy position on emerging evidence in the form of Strategic Housing Market Assessments is clear' (DCLG, 2014b, 1). He went on to state:

> The outcome of a Strategic Housing Market Assessment is untested and should not automatically be seen as a proxy for a final housing requirement … Councils will need to consider … whether there are environmental and policy constraints, such as Green Belt, which will impact on their overall final housing requirement … (ibid, 1-2)

The Minister appeared to be downplaying, the importance of objectively assessed need and signalling to inspectors, local councils and the development sector, that more weight should be placed on factors such as Green Belt designation[15] and other 'particular local circumstances' in setting levels of housing need. Interviewees suggested that the letter was intended to support local MPs in the run-up to the 2015 election, with support for the Green Belt and 'local circumstances' likely to play well in electoral terms (Geogehegan 2015, 1), a pragmatic reassertion in effect of 'one-nation' localism (Tait and Inch, 2016).

In an even more apparent ministerial 'steer' after the election in 2015 of a Conservative Government, the minister wrote to the Chief Executive of the Planning Inspectorate calling for 'pragmatism' in the approval of local plans and working with councils to achieve this:

> The Planning Inspectorate plays an important role in examining plans impartially and publicly to ensure that they are legally compliant and sound, and many inspectors have already demonstrated commendable pragmatism and flexibility at examination. I have however, seen recent examples of where councils are being advised to withdraw plans without being given the option to undertake further work... it is critical that inspectors approach examination from the perspective of working pragmatically with councils towards achieving a sound Local Plan (DCLG, 2015).

The minister ended with a direct instruction, reported as having been 'received badly by inspectors':

> Please can you ensure that inspectors are aware of the Government's position, and that you update your procedural guidance and support to inspectors so that all Local Plan examinations take full account of this letter (ibid).

Pragmatism was apparently defined as a willingness on the part of inspectors to allow councils to undertake additional work rather than require that a plan be withdrawn or for a local plan to be adopted despite 'shortcomings' which were not critical to the plan as a whole and which might be addressed in an early review – as had happened in the case of Dacorum. The Minister for Housing and Planning stated, subsequently, that local councils: '… should be able to rely on Planning Inspectors to support them in the examination process' (HC 2015, 1), in contrast to the traditional, arms-length position. Pragmatism was evident in an increasing number of cases where, as in Dacorum, inspectors approved plans

[15] The NPFF reasserted the importance of land designated as Green Belt under the 1947 Town and Country Planning Act and designed primarily to prevent urban sprawl, stating (para 87): 'inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.'

where there was a shortfall of land-supply but subject to an immediate or early review.[16] This suggested that Inspectors were increasingly mindful of ministerial clarifications and interventions.

Parliamentary challenge

There has also been overt and extraordinary criticism of the Planning Inspectorate from constituency MPs, particularly from the Conservative and Liberal Democrat parties in constituencies which have been keen to resist development. Sir Nicholas Soames, for example, stated that 'it is immensely discouraging to communities trying to make local plans when their wishes are ridden over roughshod by the Planning Inspectorate' (Hansard, 26 January 2015, col 643). Nick Herbert MP argued 'Localism can be undermined, especially by decisions of the Planning Inspectorate' arguing that:

> … the inspectorate is rewriting local plans. It is raising housing numbers in my constituency to beyond the level set out in the south-east plan, and it is causing delay at a time when responsible authorities are planning for a great number of houses—40,000 in the district council areas that cover my constituency (ibid, col 644)

Nigel Evans MP asked the Prime Minister at Question Time in the Houses of Parliament, 'to look again at the working of the Planning Inspectorate to ensure that the planning inspector puts the wishes of local people at the heart of the Localism Act 2011 as he intended' (Hansard, 6 March, 2014b, col 888). A private member's bill promoted by Liberal Democrat MP, Greg Mulholland, even proposed that the Planning Inspectorate be abolished and its functions transferred to the Secretary of State, arguing that 'distant planning inspectors come in and overturn decisions made locally, often with little knowledge of the local area' (Mulholland, 2014). Nick Herbert MP similarly argued that: 'The Planning Inspectorate is meant to stand in the shoes of Ministers. I submit that ministers could stand in their own shoes and take decisions themselves' (Hansard, 26 January 2015, col 644).

The Planning Inspectorate was portrayed as 'bureaucrats' riding roughshod over the wishes of local communities and ignoring the wishes of their political masters: 'it seems that the bureaucrats always get their way, whatever local or nationally elected politicians want in the names of those who cast their ballots.' (Liam Fox MP, Hansard, 15 December 2014, Col 1235). As one interviewee observed: 'MPs have latched on to localism, but there are non-negotiables around the national requirements in the NPPF – inspectors are piggy in the middle' – and another that: "given the contradictions between OAN and localism … we were forced between a rock and a hard place." This is a long way from the concept of the Inspectorate as a quasi-judicial, arms-length body acting objectively and impartially to implement government policy. This, however, was the highly politicised and very publicly contested and exposed context in which the Planning Inspectorate increasingly operated.

In the case of North Somerset described earlier, the minister made unprecedented use of statutory powers, shortly before the 2015 general election, to over-rule an inspector with a view to himself setting the requirement for new housing only to concede in favour of the inspector once the election was won. It was a similar picture in terms of appeals against refusal of planning permission by local councils. In the three months before the 2015

[16] Mid-Sussex, Aylesbury Vale, Gloucester, Tewkesbury and Cheltenham Joint Plan and in November 2017, Luton.

election the minister stepped in over the head of the inspectorate and rejected 95% of proposed housing development, after this a more normal pattern was restored[17].

To summarise, challenge from elected members of parliament be clearly seen as attempts to assert what Tait and Inch termed 'one-nation' localism, aiming to hold back pressures for growth and development grounded in a more neo-liberal or 'muscular' localism. At one level this was an attempt to appeal to local communities and electors. In this context, the Planning Inspectorate were portrayed as distant, faceless bureaucrats riding roughshod over local interests – rather than in any sense neutral or quasi-judicial arbitrators. Ministerial 'clarification', significantly in fact reinforced this localist agenda suggesting variously that Housing Market Assessments were 'untested', other local factors needed to be taken into account and that inspectors should practice pragmatism. There was little if any sense over this period of national government overtly promoting a more neo-liberal, growth oriented agenda. Ministers were keen, rather, to be seen to be supporting political colleagues on the ground and the communities which they represented. They did little to defend or support the Inspectorate - for whom, formally they are responsible, seeming instead willing to let them absorb much of the criticism and blame generated by the tensions and ambiguities in the new, post-reform framework.

At the same time, the national government in no-way downplayed its goals around a plan-led presumption in favour of sustainable development in support of economic growth, infrastructure provision and, increasingly over time, housing delivery. As Gallent el al (2013, 580) observed: 'It was always the government's intention to balance its localisation of the planning system with a strong national steer (or an upscaling) in pursuit of growth'. This in part was behind the government's increasing pressure to get local councils to prepare and adopt a local development plan. Whilst 'Growth localism' was not overtly part of the pressures brought to bear on the inspectorate, it was, nevertheless, embedded in planning policy including the continued importance of the presumption in favour of sustainable development and the objective testing of future housing need – however contested this might have been in practice on the ground. Not unusually, the government was pursuing, simultaneously, policy narratives that were inconsistent one with another with the inevitable tensions and ambiguities experienced, therefore, at a practical level - in this case by the Inspectorate.

Discussion and conclusions

Implications for the Planning Inspectorate

Discretion, including the role of planning inspectors in examining plans and determining planning appeals has long been a feature of the English planning system. The role of inspectors remains, on the face of it, that of interpreting and implementing government policy. There is considerable evidence, however, of significant change, increased tensions and ambiguity in the role of the Planning Inspectorate and the context within which they operate as a result of planning reform. This reflects the removal of strategic level plans, top-down housing targets and detailed, national-level, planning guidance. It reflects as well the increased significance and weight, in the absence of this larger-then-local framework,

[17] J. Davis of property firm GVA quoted in Planning, 05 May 2017, 11. The same article noted a similar pattern ahead of the 2017 election with the minister stepping in against the advice of an inspector and refusing 90% of the proposed homes.

placed on local development plans and the responsibility of local councils for determining levels of local housing need.

The extent to which local councils have adequately assessed local housing need has been a key driver of these tensions and ambiguities, as demonstrated by the case-studies discussed earlier. Inspectors have, increasingly, been required to assess complex arguments based on different assumptions and methodologies, and to do so in the absence of any clear guidance. Traditionally seen as a quasi-judicial, impartial body determining individual cases in the context of an established strategic planning framework, established guidance and targets, the inspector's role has looked increasingly like that of helping to define policy in practical terms on a case-by-case basis. This can be seen in a number of the case-studies summarised earlier. It is also exemplified in attempts by inspectors to define the level of 'uplift' in housing numbers necessary in relation to 'market forces', house prices and affordability as discussed above, a clear case of the Inspectorate making up policy on a case by case basis - direct contrast to the official view that 'Planning Inspectorate doesn't make policy. All we do is test it.'[18]

Overall, we would conclude that the role and operational context of the Planning Inspectorate clearly shifted to a significant degree as a direct consequence of planning reform. Removal of strategic plans, detailed guidance and top-down targets clearly left them with a much more pro-active and exposed role in mediating the tensions and conflicts inherent in the process of plan preparation and decision-making on applications for development. Their decision-making was subject to a greater degree of legal scrutiny and challenge in high-profile cases with wide-ranging implications. They were also subject to an unprecedented extent to challenge from ministers, members of parliament and local councillors through to personalised comment in the local press. In a context of much increased ambiguity and uncertainty, respondents clearly reported that they became increasingly conscious, in the course of their work, of the possibility of legal challenge or political pressures. There were heightened levels of review and discussion than previously within the Inspectorate around individual cases although it was acknowledged that individual inspectors still faced a high degree of personal responsibility for individual cases and exposure to challenge.

We would conclude that there was as a consequence a greater degree of reflection and caution around individual cases. Looking at the evidence as a whole, we would not, however, take a view that pressures and challenges, overall, impacted on the traditional impartiality and independence of the Inspectorate or swayed towards those arguing for lower housing targets or less robust local plans. This reflects, in part, the fact that whilst political challenge was at times vociferous and the outcome of legal challenge at times robust, the requirement to determine objectively assessed housing numbers, imperfect though the process might have been, remained, however at the core of the local plan process. Importantly as well, the presumption in favour of sustainable development remained a core policy objective even though ministers may have been less vocal, overtly at least, in championing this aspect of the overall framework.

Planning reform, managed conditionality and localism

Drawing on Hildreth (2011), we earlier highlighted the idea of 'conditional' localism focusing on the extent to which local bodies acted in line with national policy objectives. Building on

[18] Incoming Chief Planning Inspector, Sarah Richards, quoted in Planning, 21 April, 2017, 19.

this, we take from Clarke and Cochrane (2013, 14) the idea of 'rational and responsible actors' responding to 'perceived local needs', but also the key role of 'technologies for producing and regulating such actors' and securing 'good local conduct' which, according to Williams et al (2014, 2801) operate by 'manipulating the architecture of choice available to local government'. As they go on to say, 'the politics lies in who decides the content of 'rational' and 'responsible' local action'. This, we believe, helps to make sense both of localism as it has played out in the context of planning and also the particular role of the Planning Inspectorate in this.

Planning before 2010 under the New Labour government had represented a recognisably 'conditional', managed form of localism with its framework of strategic plans, top-down housing targets and detailed national planning guidance. Local councils prepared development plans but did so within this heavily structured and prescribed context. There was a degree of local discretion, representative localism, in the mix - local councils could, for example, determine where future housing development should be located, but the overall quantum was a given. Planning applications and appeals against refusal of permission by local councils were also played out within this heavily structured context. Planning inspectors played a key role and had significant discretion both in relation to development plan approval and to decisions on appeals. This same context of strategic plans, targets and guidance, however, provided a frame of reference and a measure of certainty and consistency within which the inspectorate operated albeit not a precise set of rules.

Planning reform under the Coalition Government in 2010 rapidly removed this whole apparatus of managed conditionality. The new NPPF was based on development plans prepared by local councils which would themselves also determine local housing need. The rhetoric as described earlier was explicitly that of 'a significant shift in power to local people'. On the face of it, this did represent a significant shift towards representative localism, with an element of community localism included. It certainly has represented, in practical terms, a significant change in planning policy and practice on the ground. The 'mix' of localisms has, in Evans et al's terms, changed. We would argue, however that what we see now is a new form of conditional localism rather than a strengthening of community localism.

Local councils do now have responsibility for preparing local development plans free from any strategic framework, top down targets or detailed guidelines, and they are themselves responsible for determining local housing need. As noted, many councils in southern England taking localism at face-value, cut back on planned housing numbers and were very resistant to any attempts on the part of planning inspectors or others to increase targets. There remains, however, a significant degree of 'regulation' as defined by Clarke and Cochrane, with the aim of securing 'good local conduct'. Local councils are required to prepare local development plans and have come under increasing pressure to do so, including the threat of unregulated development in the absence of a plan. The NPPF also explicitly required councils to identify local housing need and the supply of housing land consistent with identified need – an explicit definition of 'perceived local needs' in Clarke and Cochrane's terms. National Planning Guidance introduced in 2014, discussed earlier, strengthened 'regulation' as to how objectively assessed need should be approached, although it stopped short of prescribing a standard methodology. 'Case law' in the form of decisions by planning inspectors, legal judgements, interventions and decisions on the part of ministers, all served, as well, to strengthen the framework or 'technologies' as Clarke and

Cochrane termed it for securing 'good local conduct' tailored to 'perceived local need', over time shifting the balance of localism more towards conditional than representative.

The Planning Inspectorate can be seen, in this context, as a key part of this framework or, again in Clarke and Cochrane's terms quoted earlier, 'technologies for producing and regulating rational and responsible actors' (ie local councils) and securing good local conduct 'which, for the most part responds in tailored ways to perceived local needs' in the form of objectively assessed need and housing land supply in the context of an overall local plan. It had always played a role. In the absence of strategic plans, targets and guidance, the importance of the Planning Inspectorate as a key regulatory mechanism on the part of government has, however been much increased. In terms of Lees and Sheppard's argument referred to earlier, the Inspectorate must now aim to: 'fix the meanings of ambiguous concepts' (2015, 12). As one interviewee observed: 'what reforms have done is to expose the Planning Inspectorate as the only mechanism left to use.' Or as another respondent put it 'the only game in town'. As one interviewee emphatically observed:

> Inspectors are one mechanism for forming policy – do it at arms-length and blame inspectors – it's not a satisfactory mechanism but it's happening at the moment … it's increasingly a problem because policy is so muddy, decisions on policy are effectively being made by PINS.

As noted earlier, this is not to suggest that the perceived independence and quasi-judicial status of the inspectorate has been seriously compromised. It does however help to explain the tensions and ambiguities under which it now operates, the increasing pressures reported by individual inspectors and the perceived threat, as expressed by the Inspectorate, to its reputation for impartiality and independence.

Finally, the study exemplifies how ideas of conditional localism, technologies of regulation and managing the architecture of choice can play out in practical terms in a particular policy sector. It confirms the value of these more nuanced and complex conceptual approaches to localism. It also, however, potentially extends such approaches demonstrating how a quasi-independent agency, in this case the planning inspectorate, mediating between central and local government, can be integral to these technologies and to the architecture of regulation and choice. It also demonstrates the potential importance of legal processes and the courts in structuring technologies of regulation. This is a more complex picture than that commonly identified whereby local agencies are seen as operating in the context of legal frameworks, policy and procedures set by national-level governments. It also demonstrates the sort of tensions and contradictions potentially generated in the process – particularly when formal, intermediate layers are stripped out of the overall architecture of governance.

Looking to the future

There have been continuing and significant developments impacting on both the planning system and the role of the inspectorate under the Conservative Government since 2015. These have been driven in particular by increasing government concern over housing supply, rapidly rising house prices and rents and increasing problems of affordability in particular for younger households.

First, the *Housing and Planning Act, 2016* (UK Parliament, 2016) strengthened ministerial powers to intervene, prepare and impose a local development plan on a local authority that had failed to do so. This represents an explicit example of the capacity

identified by Clarke and Cochrane identified earlier, for central government paradoxically to use 'statutory force' to impose 'localism'. It also gave the minister increased powers to intervene in the process to approve a local plan being carried out by a planning inspector – building on the powers used in the North Somerset case-study described earlier. Both measures directly increased the centralised regulatory powers of central government and increased the 'conditionality' of localism in the context of planning.

Second, the 2017 Government White Paper[19] *Fixing our Broken Housing Market* (DCLG 2017a) set out clearly the scale of the issues and Government concern, and proposed a standardised methodology for calculating 'objectively assessed housing need'. This was among a range of recommendations proposed by the Local Plans Expert Group set up earlier by the Government (Local Plans Expert Group, 2016). Secretary of State, Sajid David, MP, in a blunt assessment of the system his own party had created, previously when in government, stated:

> … we need a proper understanding of exactly how many homes are needed and where. The existing system … isn't good enough. It relies on assessments commissioned by individual authorities according to their own requirements, carried out by expensive consultants using their own methodologies. The result is an opaque mish-mash of different figures that are consistent only in their complexity (DCLG, 2017b, 1).

The proposal was to base future housing need on official projections of household growth – 'to provide the bare minimum that will be required to stand still' (ibid, 2). This would be increased in areas where housing was less affordable, based on the ratio of average prices to earnings.[20] The maximum uplift was however capped at 40% of the level of housing numbers set in a recently adopted local plan.[21] Alongside these measures, it was proposed that the 'Duty to co-operate' be strengthened with a requirement for neighbouring councils to set out how this would play out in practice. It was also proposed that where levels of planned housing delivery fell significantly below actual output in the previous three years a council would be required to identify additional sites for future housing and that any future applications for housing developed would be automatically approved subject to only limited constraints. This clearly suggests a shift in priorities, reflecting the political implications of worsening housing affordability, particularly in the better-off electoral homelands of the Conservative Party – a shift towards a more 'muscular' model of conditional or managed localism. They would, potentially, affect large numbers of local councils many of them Conservative controlled (NLP, 2017). They remain, at the time of writing, proposals, however. The Ministerial statement also indicated that the proposals on numbers 'should not be mistaken for a hard and fast target'. There remains considerable scope for debate and challenge – with the Planning Inspectorate and legal processes likely to continue to play a key role in managing the tensions and conflicts which will remain at the heart of the system.

Finally different forms of collaborative, bottom-up, strategic planning have started to emerge in some parts of the country as groups of mainly urban councils pursued 'devolution deals' with central government including new powers, new financial arrangements, elected mayors and formal 'combined authorities'. Models have varied and, although the

[19] A policy and consultation document setting out proposals likely to be incorporated in future legislation.
[20] An increase in housing numbers of 0.25% for every 1% increase in the local housing affordability ratio over 4.
[21] Reflecting on some accounts concession to pressure from Conservative electoral heartlands.

devolution agenda has widened to cover potentially most of England, suggestions that some form of strategic planning framework should be a requirement of new arrangements[22] have not been progressed. Nor would such arrangements necessarily ensure that development proposals and proposed levels of new housebuilding would meet government expectations or secure the approval of planning inspectors. Planning inspectors are likely to find themselves faced with adjudicating in a context of even more complex governance structures on the ground, facing new challenges in a shifting and evolving policy context – if recent years have seen them stuck between a rock and a hard place, it is unlikely that they will find themselves in any more comfortable a place in the near future.

[22] Local Plans Expert Group (2016).

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