

# Devolution and Planning

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## Introduction: planning in a devolved UK

The constitution of the United Kingdom (UK) has been transformed since 1997 by devolution. The establishment of devolved administrations in Scotland, Wales and Northern Ireland and a directly-elected Mayor and Assembly in London created new centres of political power and new legislative frameworks through which planning is enacted. A more uncertain and partial process of decentralisation has been initiated in England, notably since 2010. The UK is characterised by asymmetrical devolution in which different territories are accorded different powers, but in each case land-use planning has been an important devolved power. Devolution in the UK is often described as a process not event. That is, the devolution legislation enacted by the New Labour government in 1997-2001 did not so much establish an enduring constitutional settlement but rather created the conditions for instability and enduring contention.

Planning as a state activity (understood here in a broad sense) and as a form of public policy is closely bound with debates on constitutional arrangements and evolving multi-level governance structures in changing states. The interplay of devolution and planning can be viewed through the prism of “territorial politics”,

that arena of political activity concerned with the relations between the central political institutions in the capital city and those interests, communities, political organisations and governmental bodies outside the central institutional complex, but within the accepted boundaries of the state, which possess, or are commonly perceived to possess, a significant geographical or local/regional character (Bulpitt, 2008: 59).

It is also closely bound with long-standing debates on the transformation of the role of the central and local state in territorial management in a post-Fordist or post-Keynesian era and the objective of ‘rebalancing’ the ‘national’ economy, that is, among other things, encouraging growth outside London and the south east of England (Pike and Tomaney, 2009; Pike *et al.*, 2015). In principle, devolution allows public policies to be better matched to citizens’ local preferences and conditions.

This chapter examines the contemporary context for planning practice in a devolved UK, which gained increasing salience in the aftermath of the 2014 referendum in which voters rejected the proposal for Scotland to become an independent country, but which compelled the UK government to initiate a new wave of constitutional reform. It examines debates on devolution in the rest of UK, which were stoked in the wake of the referendum, looking at the planning implications of further devolution in Northern Ireland and Wales, and at recent developments in England. In the conclusion, we reflect on the significance of the developments analysed for planning practice, and on the implications of the outcome of the referendum on the UK’s membership of the EU as of June 2016.<sup>1</sup>

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<sup>1</sup> Parts of this chapter are based on an earlier paper: Colomb, C. and Tomaney, J. (2016).

## Planning in Scotland

Since the Scotland Act of 1998, which initiated devolution, the Scottish Parliament has had full responsibility for spatial planning and related fields such as transport and local government. The reforms introduced by the first two Scottish governments (a coalition between Labour and Liberal-Democrats) until 2010, mainly through the *Planning etc. (Scotland) Act 2006*, echoed many of the planning reforms passed in England at the same time by the then New Labour government (Nadin, 2007; Lloyd and Peel, 2009). From 2010 onwards, the newly elected UK coalition government (Conservative-Liberal Democrat) set out to reform the English planning system through the 2011 *Localism Act* which dismantled many of New Labour's spatial planning initiatives (see below and Rozee, 2014). Following the electoral victory of the Scottish National Party in the Scottish Parliamentary election in 2011, a divergence between the planning policy agendas of the Scottish and UK governments became more apparent (Tomaney and Colomb, 2013).

Spatial planning in Scotland acquired a relatively high profile on the political agenda of the SNP government post-2011. While similarities remained in the respective planning discourses of the English and Scottish governments in the post-recession era – e.g. the emphasis on 'sustainable economic growth' and calls for more efficiency in development management (the system and processes of planning control and permission) – the Scottish government was keen to state the value of planning as a positive means of steering spatial development. The strategic and visionary element of planning supported the SNP's image of an independent, prosperous, low carbon Scotland. In recent years, however, there has been some debate about the extent of this divergence and distinctiveness (Keating, 2005; Allmendinger, 2006; Clifford and Morphet, 2015; Morphet and Clifford, 2014), but evidence suggests that the devolution arrangements of the late 1990s in the UK have allowed greater experimentation to occur in planning strategies and delivery styles, i.e. have generated a diversity of 'spatial plannings' between and within the nations of the UK, highlighting 'distinctiveness in territorial management in the broader sense' (Haughton *et al.*, 2009).

The 3<sup>rd</sup> National Planning Framework (NPF3) for Scotland, which was published just before the referendum in the summer of 2014, following an extensive consultation process, included a positive vision for the territory of Scotland (Scottish Government, 2014). It was presented as the spatial expression of the SNP government's Economic Strategy (Scottish Government, 2010), setting out a 20-30 year vision for development and investment in support of 'sustainable economic growth' and the transition to a low carbon economy, emphasizing the need to balance economic growth with the conservation of natural assets, the stewardship of natural resources, and the development of renewable energy. Additionally, themes of social, regional and inter-generational equity figured prominently as policy objectives in the NPF and in the Scottish Government's Economic Strategy in ways that were absent in the UK Coalition Government's National Planning Policy Framework for England (DCLG, 2012; Tomaney and Colomb, 2013).

Scottish Planning Policy and the NPF are instruments to guide planning decisions in a range of sectors such as economic development, regeneration, energy, environment, climate change, transport and digital infrastructure. Their potential is linked to their capacity to influence the investment decisions of the Scottish Government, public agencies, local planning authorities and private investors, as well as to the financing capacity of the Scottish government. The Scottish Government's room for manoeuvre has been limited by its inability to borrow directly on capital markets to fund infrastructure projects. Additionally, the UK Parliament at Westminster retains competence in some

key policy areas, such as taxation, energy and airports, which are fundamental levers in shaping the territorial and spatial development of any territory. Energy policy and the control of the National Grid are not devolved matters and this is a source of contention between the Scottish and UK governments because of the SNP's rejection of nuclear power and support for the development of renewable energy.

Following the 2014 referendum, the key areas of planning-related activities of the Scottish government included energy policy (including a ban on fracking for shale gas), the Community Empowerment Act (passed in June 2015, see Scottish Parliament, 2015), and land reform – a sensitive and contentious issue (see Wightman, 2015a, 2015b for a discussion) - which was put on hold prior to the referendum. The Land Reform (Scotland) Act was passed in March 2016 (Scottish Parliament, 2016). Some of its provisions were strongly opposed by the Conservatives and large land owners, such as powers to force the sale of private land to community groups and improvements in both the common good land regime and 'right to roam' arrangements – while campaigners for land reform argued the Act did not go far enough (Brooks, 2016).

The Scottish parliament elections of 2016 resulted in the SNP retaining control of the Scottish government. It set out proposals for further reforms of the planning system (Scottish Government, 2017) including making community planning a statutory aspect of development plan-making; abolishing strategic (city-region) development plans; giving Scotland's National Planning Framework (NPF) and Scottish Planning Policy stronger statutory status with greater clarity on regional priorities; improving the Local Development Plan (LDP) process; designating more land for housing, and removing the need to apply for planning permission for more types of development.

### **Planning in Northern Ireland**

The post-conflict conditions of Northern Ireland (NI), where the signing of the Good Friday Agreement in 1998 brought an end to several decades of violence, led to the creation of the Northern Ireland Assembly founded on a consociational model of government, designed to create a power sharing Executive involving the local political parties. In the aftermath of the Scottish referendum, attention was on the protracted negotiation of a "Stormont Agreement" between the various parties in the NI and UK governments (Boland, 2014; HM Government, 2014). This agreement, following months of deadlock which threatened the power-sharing arrangements born out of the peace process, partly focused on the implementation of the UK government's desired welfare and financial cuts (Birrell, 2015), but included other significant aspects such as the devolution of responsibility for the raising of corporation tax – a power which even Scotland lacks – ostensibly allowing NI to compete (or cooperate) with the Republic of Ireland for mobile investment. This agreement proved fragile and in 2017 the Northern Ireland devolution arrangements were suspended following the failure to establish a new Executive in the aftermath of elections to the Northern Ireland Assembly.

In 2012 the NI government published a Regional Development Strategy (NI DoI, 2012), which set out the spatial aspects of its programme, in particular spatial planning, transport, sustainable development and housing priorities. This was followed by efforts to create a new planning system. A contentious reform of the NI local government and planning system took effect on 1 April 2015 and involved the reduction in the number of local authorities and the devolution of powers from the NI Executive to 11 new district councils. This includes planning (including local development plan-making and development management); area-based urban regeneration and community

development. The NI Executive retains responsibility for “regionally significant” planning applications. The context for these changes was a system in which local authorities were stripped of a wide range of powers in the late 1960s (including planning) and only had a consultative role. According to the *Planning (Northern Ireland) Order 1991*, local plan preparation, development control and enforcement were in the hands of the NI Department of the Environment. But the effort to reform the system has been slow and fraught. The devolution of planning powers to NI local authorities is a challenging process, which requires capacity building and a ‘culture change’. Additionally, a proposed *Northern Ireland Planning Bill* was withdrawn in late 2013, although some of the aborted Bill’s provisions were implemented through administrative action. A *Strategic Planning Policy Statement for NI* was agreed upon in 2015 (NI DoE, 2015), which sets out the planning policy objectives for securing the development of land in NI under the reformed two-tier planning system, and constitutes the strategic framework for the preparation of Local Development Plans.

## **Planning in Wales**

The *Government of Wales Act 1998* established the National Assembly of Wales but in contrast to the primary law-making powers given to the Scottish Parliament, the Act limited the National Assembly to enacting secondary legislation only when authorised by the UK Parliament. *The Government of Wales Act 2006* enhanced the Welsh Assembly’s powers and the Commission on Devolution in Wales (2014) advocated a ‘reserved powers’ model for Wales, which would offer more clarity, consistency and equity across the devolved nations of the UK. It also supported the devolution of certain tax and borrowing powers and specific planning powers to allow the Welsh Assembly to manage Welsh natural resources more effectively. It recommended that all energy planning consents (non-renewable and renewable) below 350MW should be devolved; and that the UK Government should have a statutory duty to take account of Welsh planning policies when exercising its retained responsibilities for larger projects. Other proposals relate to the devolution of regulatory powers over transport including ports, rail, buses and taxis; possible elements of social protection (e.g. housing) and control over the Crown Estate - all of them relevant for planning policy some of which were taken on board in the plans proposed by the UK government (Wales Office, 2015). The new Conservative government’s priorities included plans to grant new powers to the Welsh Assembly in the fields of energy, transport and the running of elections, which were enacted in the Wales Act, 2017.

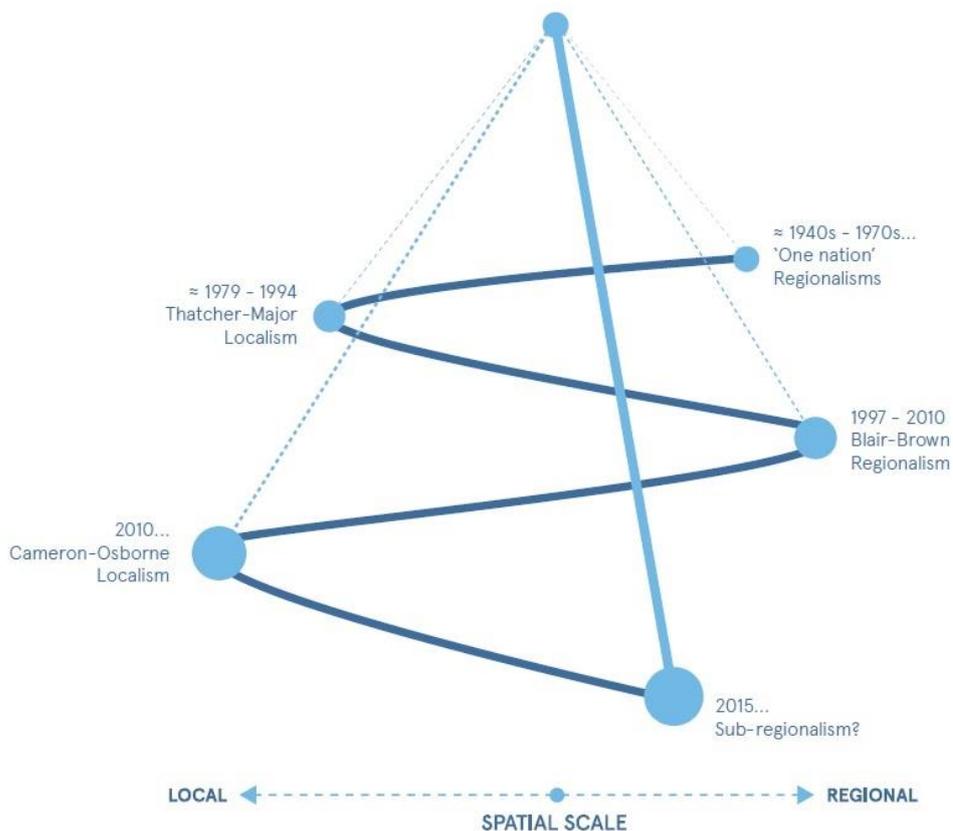
A significant part of planning competences was devolved to the Welsh Assembly Government under the Government of Wales Act 2006, which stipulated a duty to promote sustainable development. A Wales Spatial Plan was approved in 2004 and updated in 2008. The Welsh Government introduced the *Planning (Wales) Bill* to the National Assembly in October 2014 to propose a reform of the planning system. The *Planning (Wales) Act* was approved by the Welsh Assembly in May 2015, and has been described as the foundation for a ‘renaissance of strategic planning’ in Wales (Morris, 2015). The Act foresees the preparation of a National Development Framework (NDF) by 2018 (which will replace the Wales Spatial Plan and set out a 20 year land use framework for Wales) and the introduction of Strategic Development Plans for some parts of the country to tackle larger-than-local cross-boundary issues (e.g. in Cardiff and Swansea), in addition to existing Local Development Plans. In combination with two other pieces of legislation – the *Environment (Wales) Bill* and the *Well-being of Future Generations (Wales) Act 2015*, the Welsh planning system is being geared towards supporting the sustainable use, management and development of Welsh resources, as the country is likely to be strongly affected by the impacts of climate change. A reform of local government has also been under discussion, with proposals spelled out in early 2017 in a *Local Government Reform White*

*Paper*. Corresponding to the proposed NDF’s commitment to strategic, larger–than–local planning, in 2017 the UK government, the Welsh Assembly Government and the Cardiff Capital Region (the City of Cardiff and nine neighbouring local authorities) agreed a City Deal, which creates a framework for strategic planning – including housing, transport planning and land use – in South East Wales.

### Towards regional planning in England

England is the largest country in the UK, but has not experienced devolution of the type seen in other countries. There has been a long post-war search for a stable and effective regional planning system with the regional and local scales being the focus for action at different periods. Under New Labour, a strong emphasis was placed on the regional scale through the creation of Regional Development Assemblies (RDAs) and the proposal to create elected regional assemblies. The incoming Coalition in 2010 swiftly abandoned this approach, abolishing RDAs and their associated Regional Spatial Plans.

Figure 2.1: Pendulum swings in economic development governance in England  
 (Source: Pike et al., 2016)



“Localism” and the “Big Society” were buzzwords in the early days of the UK Coalition government (Swain and Baden, 2012; Wills, 2016). Both terms were vaguely defined, but rhetorically signalled a reduced role for the state in the management of urban and regional change and a shift of power from the central state beyond local authorities to ‘local communities’ (DCLG, 2010). In planning terms the apparatus of spatial planning established by the previous Labour government in the form of Regional Development Agencies and Regional Spatial Strategies was abolished by the incoming government (Roze, 2014). Newly instituted non-statutory Local Enterprise Partnerships (LEPs) in theory brought together public and private actors at a local scale to promote local economic growth (Pike et al.,

2015). This ‘downscaling’ of planning was accompanied by concerns over the system’s ability to achieve broader and longer-term spatial objectives (Gallent et al., 2013; Baker and Wong, 2013; Boddy and Hickman, 2013). In the 2011 Localism Act the Coalition government stipulated a formal “Duty to Cooperate” for local authorities to work with their neighbours in the preparation of their development plans. In parallel, a new tier of “neighbourhood planning” was introduced to give the right to residents to prepare a plan for a designed area subject to a referendum (Brownill and Bradley, 2017; Davoudi and Madanipour, 2015; DCLG, 2014; Locality, 2015; Wills, 2016). Underlying these approaches was the assumption that a proliferation of local and neighbourhood plans and their attendant spillovers can be resolved through cooperative and voluntaristic means, although there is scant evidence of this practice (Boddy and Hickman, 2013). In 2015 tensions had become apparent within the Conservative government’s agenda between, on the one hand, the promise to take the decentralisation and localism agenda further (by giving more power to local authorities and local communities over the control of development), and on the other, the imposition of top-down pressures for local authorities to accept new developments at all costs and release land for housing (HM Treasury, 2015).

While spatial planning arrangements in England were quickly abolished by the Coalition government in 2010, London remained an exception. The creation of a directly-elected Mayor and Assembly in 1999 (“Greater London Authority”) included the power to create a statutory spatial strategy (“The London Plan”). Strategic spatial planning in London is the shared responsibility of the Mayor of London, London Boroughs and the City of London. The London Plan is the Mayor’s over-arching strategic planning policy, with which the individual spatial plans of the London Borough and City of London must conform. The Mayor has a duty to keep the London Plan under review, and it is expected to provide an integrated economic, environmental, transport and social framework for the spatial development of London over a 25-year period, for instance designating 38 ‘Opportunity Areas’ for new housing and commercial development and 7 ‘Intensification Areas’, which vary in physical size and growth potential, but collectively are earmarked to provide land for 575,000 new jobs and 303,000 new homes. The Mayor has overall responsibility for designating the Opportunity Areas, while the Boroughs lead on development activity within the Opportunity Areas. The London Plan is not covered by the duty to co-operate, but the Mayor does have to consult with the Boroughs and with local authority areas that border the administrative boundaries of London within the broader city-region. The perceived success of mega-events such as the London Olympics in 2012 and mega-infrastructure such as Crossrail (“The Elizabeth Line”) have bolstered claims that London’s governance arrangements have delivered effective spatial planning. However, episodes such as the aborted London Garden Bridge, proposed by Mayor Boris Johnson, with its “extremely murky procurement process, hazy costs, and utter lack of practical benefits” (O’Sullivan, 2017: np) also suggest some of the dangers in so much power resting in the office of the Mayor. At the same time, the steering capacity of the Mayor - and more widely of London Boroughs - in the planning and urban development fields has been constrained by the increasing weight of private developers and weight given to “viability” considerations in the development and planning obligation negotiation process (Wainwright, 2014, 2015). Successive London mayors, backed by key economic actors, have recurrently pleaded for more devolution for London, especially in fiscal terms. With the prospect of Brexit, the London Finance Commission, convened by the Mayor, called for more tax and spending powers for London to support its continuous demographic and economic growth (LFC, 2017). The challenge arising from such demands when considered at a larger scale is ‘how to operate a system which provides London with greater incentives and control (and therefore responsibilities), while at

the same time not being seen to diminish the significant contribution that the capital makes to the national finances and therefore to public services in other parts of the country' (McGough, 2016: np).

There is no formal strategic planning framework for the wider functional urban region which extends beyond the Mayor's jurisdiction – i.e. the city-region or South-East as a whole. As there are noticeable differences in the institutional capacity, statutory responsibilities and resources between the GLA, London Boroughs and local authorities and LEPs in south east England, this makes governance, long-term planning for housebuilding, and assembling public and private (particularly international) infrastructure difficult (O'Brien *et al*, 2018). London's particular and distinct geography, and complex questions of governability, has resulted in a "number of ad-hoc solutions to the city's governance problems" (Travers, 2015: 26), while there have also long been arguments for planning and co-ordinating infrastructure and development within and beyond London's administrative boundaries as 'urban geographers and planners have generally seen London as an area of economic and social activity that extends far beyond the continuous built-up area of the city' (Travers, 2015: 337).

Alongside the broad shift to Localism – and partly responding to its weaknesses as well as the powers granted to London – there has been a growing focus on city regions as the scale to which political powers should be decentralised in England. This has found expression in the form of "Devolution Deals" with Combined Authorities – statutorily defined groups of local authorities – which have typically included increased planning powers. The most significant development in this context was the signing of the "Greater Manchester Agreement" between the Chancellor of the Exchequer, George Osborne, and the leaders of 10 local councils in Greater Manchester on 3 November 2014 (Jenkins, 2015; Tomaney and McCarthy, 2015). This proposed the establishment of a directly elected mayor for Greater Manchester, with the power, among other things, to create a statutory spatial development plan including provisions for employment land, housing and infrastructure to 2033 (HM Treasury and GMCA, 2014). A draft Greater Manchester Spatial Framework was published in late 2016 including proposals to build on the Greenbelt that caused local controversy (Williams, 2016). Following the Scottish independence referendum, the UK government agreed additional Devolution Deals with ad hoc groups of local authorities, largely replicating the Manchester Agreement, and typically involving some statutory strategic planning powers (Table 2.1). In each case, new Combined Authorities agreed to be governed by directly elected Mayors and elections were held in May 2017. In other places, mooted Devolution Deals – such as in the North east, Sheffield, West Yorkshire and Greater Lincolnshire - did not materialise or collapsed because of an inability to agree local priorities or governance structures.

Table 2.1: Devolution Deals in England in 2016 (Source: Centre for Cities, 2016)

	Cambridge & Peterborough	Greater Manchester	Liverpool City Region	Tees Valley	West Midlands	West of England
30 year investment fund	£600m	£900m	£900m	£450m	£1.1bn	£900m
Education and skills	Apprenticeship Grant for Employers, Adult Skills Budget. Post-16 further education system	Apprenticeship Grant for Employers, Adult Skills Budget. Post-16 further education system	Apprenticeship Grant for Employers, Adult Skills Budget. Post-16 further education system	Adult Skills Budget	Adult Skills Budget	Apprenticeship Grant for Employers, Adult Skills Budget. Post-16 further education system
Housing and planning	£170m affordable housing grant. Strategic planning. Mayoral Development Corporations	£30m per year Housing Investment Fund. Strategic Planning. Land Commission. Compulsory purchase powers. Mayoral Development Corporations	Strategic planning. Compulsory purchase powers. Mayoral Development Corporations. Control of Key Route Network	Mayoral development Corporations.	Compulsory purchase powers	Strategic planning. Compulsory purchase powers. Mayoral Development Corporations
Transport	Consolidated transport budget. Local roads network. Bus franchising. Smart ticketing	Consolidated transport budget. Local roads network. Bus franchising. Smart ticketing	Consolidated transport budget. Local roads network. Bus franchising. Smart ticketing	Consolidated transport budget	Consolidated transport budget. Local roads network. Bus franchising. Smart ticketing	Consolidated transport budget. Local roads network. Bus franchising. Smart ticketing
Health and social care	Planning for health and social care integration	Control of £6bn integrated health and social care budget	Planning for health and social care integration			

## Conclusion

Devolution provides an important context within which planning occurs in the UK. The creation of devolved administrations in Scotland, Wales and Northern Ireland made space for divergences in planning priorities and practices with England. In London, the Mayor's London Spatial Plan offers the only example of a strategic framework for land-use development. Despite the existence of a local plan-based system in the rest of England, and a putative "Localism" after 2010, the space for sub-national discretion there has been more limited. The creation of a small number of Combined Authorities led by directly-elected Mayors raises the prospect of the return of more strategic forms of spatial planning in England following their abolition in 2010, but it will take some time before judgements about the effectiveness of these arrangements can be made.

On the one hand, the developments described above raise the prospect of planning better matched to the diversity of conditions and preferences in the UK, but as Pike *et al.* (2012: 25) note, there is 'limited evidence that any economic dividend of devolution has emerged yet'. This remains difficult to discern because the likely effects are overridden by the role of national economic growth in decisively shaping the pattern of spatial disparities, and in determining the scope and effects of spatial economic policy and decentralisation. Additionally, asymmetrical devolution raises the question, in England for instance, whether decentralisation to selected city-regions empowered by directly-elected Mayors, without the development of broader mechanisms for inter-regional

redistribution and territorial equalization or regional economic development strategies, will create an archipelago of dynamic metropolitan areas surrounded by hinterlands of small towns and rural areas struggling with issues of demographic and economic decline (Tomaney, 2016). The most pressing planning issues in England – a North-South divide that is neither sustainable for the residents of the ‘North’ nor for the residents of the overheated South-East; a chronic shortage of affordable, adequate housing for significant parts of the English population; the threat of climate change, resource depletion and natural disasters such as flooding; the needed improvements in transport infrastructure – all demand strategic planning at a scale that may be higher than the city or city-region. Some degree of higher-level adjudication is important to reconcile conflicting territorial interests to secure key infrastructure, amenities or housing developments across the territory. As with any rescaling of government and governance, ‘there is the potential for a radical reworking of the distribution of winners and losers in both societal and spatial terms, which may be progressive or it may be regressive’ (Houghton *et al.*, 2009: 10).

The Brexit referendum of 2016 created intense political and economic uncertainty. The referendum was held as a UK-wide franchise, with no separate requirements for majorities in each of the four constituent nations of the UK. The results revealed a highly divided UK: Scotland, Northern Ireland and London voted in favour of remaining; large parts of England and Wales voted to leave. Those results might have a strong impact on the relationships between the four nations of the UK with Scotland’s First Minister airing the possibility of convening a second referendum on Scottish independence. The possibility of an independent Scotland negotiating to remain within the EU while the rest of the UK is out of it would mean the creation of a “hard” border. Such a prospect would have an impact on the north of England and generate new challenges for the Anglo-Scottish border (Shaw, 2016; Colomb, 2017). In Northern Ireland, there are fears that the recreation of a hard border between the Republic of Ireland and NI, and the loss of significant amounts of EU structural funds which have supported economic and social development in the region, could jeopardize the peace process. In the long term, an effective Brexit might increase scope for policy differentiation between the UK nations once their governments have been freed from the constraints of EU harmonization (Hazell and Renwick 2016).

In this chapter, we have charted the impact of devolution on planning practice. Devolution holds the promise of achieving spatial planning better matched to local conditions. But we began by noting that devolution occurs within the context of territorial politics in which power of the allocation of land-use is critical. Therefore, it is important to recognise that effective planning practice rests not just on the deployment of technical skills but on knowledge of the political economy of (local and regional) growth and development. Planners in the public, private and non-governmental sectors are necessarily implicated both in debates about how to promote sustainable development in diverse economic conditions and those that concern territorial politics in a devolving state.

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