Twists and turns on performance

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Amid references to Franz Kafka, Che Guevara smoking a large Havana cigar and communities secretary Eric Pickles "taking a hammer and sickle to local democratic decision-making", Hansard's record of last month's second Commons reading of the Growth and Infrastructure Bill makes unusually gripping reading.

Perhaps it's no surprise that the bill's proposal to allow planning applications to be made directly to the secretary of state, thereby bypassing underperforming local authorities, has engendered much debate inside and outside Westminster. But what does "underperforming" mean? Which councils are at risk of being bypassed?

A Department for Communities and Local Government (DCLG) consultation document, *Planning Performance and the Planning Guarantee*, provides some answers. It proposes that an underperforming planning authority should be defined either as one where 30 per cent or fewer of major applications are determined in the statutory timeframe, or as one where 20 per cent or more of refusals or non-determinations of major applications are overturned on appeal.

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When you scratch under the surface, however, things start to unravel. Firstly, what if a council makes unimpeachable decisions on major applications but just takes slightly longer to get them right? Is that really "justice denied" for applicants, as Pickles argues? Secondly, the consultation makes the glaring admission that current planning performance figures have not been assessed against the extended statutory time limit of 16 weeks for applications requiring environmental impact assessment. Consequently, any such decision taking longer than 13 weeks has been treated as "late" by the mandarins.

Where does all this leave localism and the humble committee meeting? Instead of locally elected councillors voting on applications that directly affect their electorate, most cases will be handled by the unelected Planning Inspectorate (PINS), which – according to the consultation document – will be operating under a "presumption" that determinations will be made by written representations only.

Then throw into the mix the mayor of London, who will retain the power to recover applications made directly to the secretary of state. Could underperforming London boroughs stomach applications being made direct to PINS, only for the mayor to recover them over their heads? Who would have thought that the mayor's call-in powers would be heralded as localism fighting back?

Here are two pointers for the future, if these arrangements go ahead. Firstly, look out for a deluge of planning performance agreements. Secondly, despite the Prime Minister's loathing of High Court intervention, these powers may increase the volume of challenges to ministerial actions under section 288 of the Town and Country Planning Act 1990.